IN GREAT SPEECH CARVELL DRIVES THE GRAFT FACTS HOME

COMMISSON

with regard to myself and others, I would not be ready * * * *.

Q.—You decline to bring in the name of the parties who brought the statement to you?

A.—You know the names of the parties. It would not be fair without their consent, and you are not going to get me to give the information.

Q.—You refuse to give the name of the gentleman?

A.—I do.

Q.—And the names of the gentlemen who were present at the time?

A.—I absolutely refuse.

Mr. Carvell—In view of the statement made, I declare in the most solmen manner, I declare that so far as any statement concerning myself, it is absolutely false and without foundation. I want to declare as to the suggested payment of $10,000 or any other amount being made to my associates, I never heard of it and it is without foundation so far as it refers to me. I never in my life was approached by any member of the Conservative party or any personal friend of Mr. Flemming or representative of his for the purpose of settling these charges. I know nothing of the drawing up of a document such as has been referred to, and in view of the statements that this man has made, I say they are without foundation where I am concerned, and I call upon Mr. G. W. Fowler to substantiate the truth of what I have said. I am entitled to some protection from a man of this sort.

Mr. Fowler's Corroboration.

Mr. Fowler—I think it only fair to say so far as I know representing the government as counsel here, that the statement made by Mr. Carvell is absolutely true. There has been no such offer made by Mr. Carvell nor any negotiations carried on by him (Mr. Carvell) so far as I know, and I believe the statement made by him here is absolutely true. I do not know where my learned friend (Mr. Baxter) has obtained his information, but I say in justice to Mr. Carvell I feel I should make this statement.

Mr. Carvell—That is satisfactory.

Chairman—Have you any other witnesses, Mr. Carvell?

Mr. Carvell—I have subpoenaed Mr. Flemming, and before this inquiry closes I want Mr. Flemming called. I feel that the books of the St. John & Quebec Railway ought to be in our hands before we close this investigation. I am satisfied that if I had the books of the company here, the examination of Mr. Flemming might be unnecessary. The more we discuss it the more I am convinced of the necessity of having these books here. I think the commission ought to call Mr. Flemming on that.

Chairman—No man can be compelled to come and convict himself—not that I assume for a moment that Mr. Flemming is guilty of these charges.

Mr. Carvell further argued that by the recent legislation the country was the owner of fifty-one per cent of the company, and therefore could order the books. He thought that Mr. Guthrie had treated the commission with levity, and he and Mr. Gould said they had sent for the books, but the only answer which they allege came was that the treasurer was away. It was useless going to other members of the company for Mr. Chestnut and Mr. Edgecombe had said they were perfectly willing to get the books if they could. He had not, continued Mr. Carvell, personally approached the attorney general except through a letter published in the press, but he thought that the attorney general representing the law department of the country and as acting premier ought to see that the books are produced.

Mr. Teed said he did not think that the books would be of any use in fulfilling the duties of the commission.

Judge Wells—And if the books do not come, what is the alternative?

Mr. Carvell—I shall demand the right to examine Mr. Flemming.

It was then decided to take the argument in the timber charges when the commission reassembles this morning at 10 o'clock.

ENLISTING FOR WAR IN CARLETON COUNTY

Woodstock Armory Under Guard Day and Night—Passer of Forged Express Orders Gets Three Years.

Woodstock, N. B., Aug. 9—Robert L. Dalton, who was committed on a charge of uttering forged express orders, was tried before Judge Carleton yesterday under the speedy trials' act. The orders had been passed in Fredericton, Moncton, St. John and Woodstock but the judge ruled that he had jurisdiction only in the counties to which he had been appointed and he would try Dalton on the Woodstock charge. The prisoner pleaded guilty and was sentenced to three years in Dorchester penitentiary with hard labor.

It will be remembered that the orders had been stolen from the express office at Port Mulgrave (N. S.), and had been cashed in several places under the name of George Simpson.

About 600 Oddfellows are to meet here Tuesday next. It is the annual Grand Lodge, Grand Encampment and Rebekah Assembly of the maritime provinces and Newfoundland. The town will be in holiday attire for the event. Main street will be brilliantly illuminated with a system of ornamental lighting. The lights were turned on last night and made a grand scene. A huge arch has been erected at the town hall. The degree of the chivalry will be conferred on a class of candidates at Connell Park Wednesday afternoon.

Enlisting is going on in the different Carleton county military organizations. Owing to the many valuable guns and other military stores in the armory the place is guarded day and night.

DESPONDENT ONTARIO WOMAN COMMITS SUICIDE IN MONCTON.

Moncton, N. B., Aug. 9—Miss Maria Shannon, aged fifty-five, of Port Colborne (Ont.), committed suicide Sunday morning at Mrs. McDonald's boarding house, King street, while in a fit of despondency.

"If you were married," said the Summer Girl, "would you believe everything your husband told you?" "No," answered Miss Cayenne; "but for the sake of peace in the family I'd make him believe I believed it."

CARVELL DRIVES THE CHARGES HOME

Summed Up in Timber Inquiry Friday, and His Logical and Merciless Marshalling of the Evidence Was the Work of a Master--Under Oath, Messrs. Carvell and Carter Effectually Dispose of J. B. M. Baxter's Wild Effort to Create an Eleventh-Hour Diversion in His Favor.

The sensational inquiry into the Dugal charges against Premier Flemming in connection with the extortion of a large fund of money from the holders of leases of crown timber limits came to a climax Friday afternoon.

Failing the appearance of W. H. Berry who, apart from the premier is the man best qualified to tell the story, the case was declared closed and the arguments of counsel on both sides were heard.

At the morning session the case for Mr. Dugal was opened by Mr. Stevens who reviewed the evidence and outlined the case for his side.

Mr. Teed followed very briefly arguing that the case hinged upon the charge of extortion and that no extortion had been shown.

George W. Fowler made the principal argument for Mr. Flemming and, apparently feeling that arguments were not sufficient, closed with a plea for sympathy for the man against whom the charges are directed.

In a masterly address, clear and clean-cut, logical from start to finish, built on the solid foundation of facts produced in the evidence, Mr. Carvell closed the case for the complainants.

Beginning with the introduction of the new timber lands legislation Mr. Carvell showed how impossible it was to execute the provisions of the law in the time allowed and that the pretence of doing so was in itself sufficient to arouse suspicion.

The classification of the lands and the fixing of the bonus were left in the hands of two men, Premier Flemming and W. H. Berry, the two men whose names were afterwards the most prominent in connection with the collection of the fund.

That the fund was collected at such a time and under such circumstances, Mr. Carvell argued, was enough to point to it as evidence of bribery and corruption rather than as the voluntary contributions of friends of the government.

That it was not voluntary was shown by reference to the evidence that not one of the contributors came to offer the money but that each of them had to be approached by a collector. Not one of these men had been approached, and there was no evidence to show that one of them had ever even heard of the fund, before June 20. Mr. Carvell could not reconcile this evidence with the statement of Mr. Flemming that Mr. Berry came to him on or about this date and told him that the lumbermen wished to make up a fund.

The charge of extortion was upheld by the counsel with the argument that any demand for money by a man in Berry's position was one which could not be disregarded by those of whom the demand was made without the possibility of serious consequences to themselves. In these circumstances the simplest request became extortion.

In addition to this it was shown that in almost every case the lumbermen, instead of volunteering the money, refused to pay when asked and insisted at least on a day to think it over and consult their friends. Individual cases were quoted to show the actual pressure brought to bear, that of Angus McLean who was told that he had to pay the money; that of Walter Stevens who could not learn what bonus he must pay until he agreed to contribute, that of James Robinson who was forced to give money belonging to the Lynch estate in spite of his protests, and others more or less similar.

From this Mr. Carvell proceeded with his illuminating exposition of the evidence showing detail after detail fitting together in harmony until out of the disconnected stories told by various witnesses, Mr. Flemming among them, he pieced together the picture of Flemming the arch-conspirator plotting and planning to secure the results which were afterwards accomplished.

Berry, Teed and Brankley all had their parts to play but it was the premier of the province who brought them together in his own room in the Barker House and put the plot on an organized basis, Mr. Carvell said.

Mr. Flemming's connection with the fund, his interest in it, his apparent supervision of it, his custody of it while Mr. Teed was sick were all brought out to form the background of the picture.

Without display of malice of unfriendliness, but with the cold, calm logic of a man dealing with facts Mr. Carvell built up his argument in support of the charges and when he sat down there seemed to be no detail missing except the finding of the commission which will come in good time.

The morning session was made notable by the finishing touches put to the discomfiture of J. B. M. Baxter as the result of his vicious and unfounded attack of the night before upon Mr. Carvell and E. S. Carter.

Both of these gentlemen went on the stand and gave their evidence under oath denying in the most absolute manner, Mr. Baxter's allegation that they had made overtures for the withdrawal of the Dugal charges. Instead of this they were in a position to swear that the only advances made were those made by lumbermen interested and by members of the Conservative party and that these advances were treated with the scorn that they deserved.

When the court adjourned last evening it was with the understanding that they should not resume until Friday of next week when the Valley railway charges will be taken up. Mr. Carvell again served notice upon the commission that he could not complete his case without the books of the New York office and that he would not close the case until they are produced.

During the intermission the members of the commission intend to make an inspection of the railway as now built and of portions of the route over which it is to be carried.

MORNING SESSION.

Friday, Aug. 7.

Before proceeding with the argument when the morning session opened, Mr. Carvell drew attention to statements made yesterday by J. B. M. Baxter regarding a proposal to pay $10,000 to hush the Dugal inquiry. He said that E. S. Carter felt very deeply the reference made to him in this connection and desired to go on the stand to make a statement. He had notified Mr. Baxter's office of this intention, and that Mr. Baxter would have an opportunity to cross-examine the witness. Mr. Carvell then left the court-room to telephone Mr. Baxter and returned with the information that the latter would be in court later.

Mr. Teed submitted a statement prepared by Mr. Blanchet showing the interest charges in the railway account.

Mr. Fowler asked if the commissioners intended to go over the road before hearing the argument on the railway case. The chairman said that they hoped to do so on Monday or Tuesday, but would know definitely later in the day. In that case they would not be able to resume before Friday.

Mr. Carvell suggested that the inspection be made from a flat car in front of the engine, but the court did not seem to take kindly to the idea.

E. S. Carter on Stand

Mr. Carter then took the stand, examined by Mr. Carvell the witness said that he was present in Fredericton during the last session of the legislature, in the capacity of Liberal organizer. While there he received information regarding the payment of the additional $15 a mile on the timber lands. When satisfied that the story was correct he informed Mr. Dugal, and after conversation with him communicated with Mr. Carvell and later met him in St. John. In consequence of this meeting, and after consultation with Mr. Dugal, the charges were laid on April 6.

Mr. Carvell then read the statement made yesterday by Mr. Baxter regarding a proposal to stifle the inquiry. Regarding this Mr. Carter said:

"Such a proposal was never made by me or by anyone associated with me to the best of my knowledge, and I was kept informed of everything that went on. We made no proposals whatever and received none from the other side.

"I may say that one day in St. John a North Shore lumberman came to me and said the charges were all nonsense and the whole thing could easily be hushed up and offered to pay the expenses incurred. I just laughed at him.

"When I saw you in Fredericton that evening I told you, and you said:—'God knows I am poor, but not so poor that I would take money that way.'"

Q.—Did you ever see such a document as Mr. Baxter referred to?

A.—No; I never even heard of it before.

Mr. Baxter cross-examined.

Q.—Did you directly or indirectly consult Hon. Wm. Pugsley regarding this matter?

A.—No.

Q.—Do you know in any way of a suggestion to modify the charges outside of the one you've mentioned?

A.—No.

Q.—Was Dr. Pugsley conducting negotiations?

A.—Not to my knowledge.

Q.—Were proposals of this sort submitted by Dr. Pugsley to Mr. Carvell?

Mr. Carvell—I'll take the stand and swear they weren't.

This concluded the cross-examination and Mr. Teed cross-examined.

Q.—How long have you been Liberal organizer.

A.—Four or five years.

Q.—What are your duties?

A.—To organize parishes and counties.

Q.—Is that your principal occupation?

A.—I'm something of a farmer, too.

Q.—You've heard of campaign funds. Are they necessary?

A.—It is necessary to pay expenses.

Q.—Who has to do with gathering campaign funds?

A.—I don't know. I don't do it.

Q.—Do you have to do with expending them?

A.—I never had anything to do with campaign funds that weren't legitimate. I have paid traveling expenses, printing, posting, advertsing, etc.

Q.—I suppose you have heard of disbursements other than legitimate ones?

A.—Yes.

Q.—From what source do your campaign funds come?

A.—I don't know definitely. I couldn't give you definite information.

Mr. Carvell Takes Stand.

Mr. Carvell then demanded that he should be sworn and when he took the stand said:

Everything Mr. Carter has related up to the time of laying the charges is correct. I wish to state that no proposal was ever made, by me or by my consent, with the intention of burking this inquiry or lessening its scope. I never heard of a proposed payment of $10,000 or of the document mentioned by Mr. Baxter. If any proposals were made they were not made to me or through me or by my consent.

Witness was cross-examined by Mr. Baxter.

Q.—Why did you ask Mr. Fowler to substantiate your denial.

A.—Because he represented the government.

Q.—Do you swear Mr. William Pugsley never suggested the possibilities of a settlement to you.

A.—He never asked me for a settlement.

Q.—You knew negotiations were made?

A.—Yes.

Q.—How?

A.—Two lumbermen told me they might be settled.

Q.—Did you discuss it with Dr. Pugsley?

A.—Yes.

Q.—Did he speak of terms?

A.—I don't think so.

Q.—Were you not aware that a gentleman on the Conservative side was discussing a modification with Dr. Pugsley.

A.—I knew nothing of my own knowledge.

Q.—Have you never heard of this from your political associates?

A.—No.

Q.—Did it never come to your knowledge that a gentleman associated with the Conservative party discussed the matter with Dr. Pugsley?

A.—No.

Q.—Or with anyone else?

A.—I heard that a prominent St. John Conservative approached a prominent St. John lumberman on the matter.

Q.—Did it involve any portion of what I mentioned yesterday?

A.—Yes, Mr. Flemming's resignation.

Q.—The dropping of the timber charges?

A.—Yes.

Q.—The dropping of the railway charges?

A.—No one ever asked me to do that.

Q.—Were you ever asked to drop the timber charges?

A.—Yes, by the lumbermen I mentioned. I will give you their names if you want them.

Q.—You are proprietor of the Carleton Sentinel?

A.—No. I hold $400 stock and am a director.

Q.—Have you heard of any meeting of persons favoring the charges to consider their abatement?

A.—No.

Q.—Was Dr. Pugsley left free to make arrangements?

A.—Not so far as I was concerned.

Q.—Was it never suggested to you that Mr. Flemming was to make an admission?

A.—The proposition was for him to resign and he would have to make an admission.

Q.—Have you any doubt that a message came to Fredericton suggesting a settlement to government supporters?

A.—Not from me nor with my knowledge and consent. Mr. Fowler and I never spoke of this matter until a few days before the hearing opened and then we discussed the date of the hearing. That is the only time Mr. Fowler and I exchanged words on the matter.

Mr. Teed cross-examined the witness.

Q.—How long have you been active in politics?

A.—About twenty years.

Q.—What information have you as to campaign funds?

A.—There is more money spent in New Brunswick than there should be, I believe money is used in elections.

Q.—In large amounts?

A.—More than there should be.

Q.—Where do these funds come from?

A.—I don't know, except that I've always managed to pay my bill after elections. He went on to say that he had no information regarding the source of campaign funds but that he had always managed to pay his own election bills although never in the past eighteen years had there been a time when he did not have debts from this origin hanging over his head. He had never received a dollar for any campaign fund and he had paid his election bills with money earned by himself in his law practise.

He believed that money had been used of which he had no knowledge, but he had always deprecated it and he hoped the time would come when an end would be put to such expenditures on both sides.

This concluded the evidence.

Argument in Timber Charges.

J. M. Stevens, K. C., then opened the argument in the timber lands charges by reading the formal charges.

After reviewing the previous legislation regarding the crown timber lands and the new act passed in 1913, Mr. Stevens turned to the incidents surrounding the passage of the legislation. He argued that the classification has not yet been completed according to the act and that if the commission finds that the classification arranged by Hon. Mr. Flemming was effected by corruption that it would thereby be vitiated.

He described the position held by Mr. Flemming in the councils of the government and the estimation of the people and the influence which he had on this account. He showed how the premier had taken advantage of this position by raising a fund from the men who were to be affected by the new legislation, before the legislation was adopted. The premier's participation in the plot was shown by references to the evidence regarding Messrs. Berry, Teed and Brankley and Mr. Flemming's connection with their arrangements for the collection of the funds.

Mr. Stevens quoted at length from the authorities regarding what constituted extortion and quoted from the evidence to show that the description fitted the premier's conduct. He traced the relations between the premier and Berry saying that the actions of Mr. Flemming virtually gave to Berry the authority of the premiership and that it was clothed with this authority that Berry went out to make his corrupt bargains. He briefly reviewed the evidence to show that every charge was fully supported and absolutely proven.

M. G. Teed, K. C., leading counsel for the defence, then took up his argument. He said that the classification had been arranged under the direction of Mr. Berry, the official most competent to direct the work and that no evidence had been submitted to show that the classification was incorrect.

Mr. Teed also argued that the rates of bonus were reasonable and that no harm or damage had been done to the country by reason of it.

He declared that the only point to be considered by the court was the allegation of extortion which, he said, had not been proven. Whatever Mr. Berry did, we are convinced that Mr. Flemming believed that this was a voluntary fund and that he had no knowledge of anything to the contrary," said Mr. Teed in closing.

George W. Fowler, K. C., counsel for the attorney-general, said that the case resolved itself into the following matters

(a)—The agency of Berry from Flemming to extort moneys; (b) the control and direction of Berry by Flemming for extortion and (c) that monies so extorted were paid to Berry by Mr. Flemming's knowledge and consent before the classification.

Mr. Fowler interrupted his own argument to say that he had wide experience with campaign funds and that so long as men were constituted as they were they would be necessary and he argued that they were not necessarily corrupt or immoral. He quoted Mr. Ames, M. P., regarding campaign funds saying that Mr. Ames was a man whom no one would accuse of corrupt practices. He himself would not profess so much but he contended that his record was as clean as that of any man in the province.

Com. Fisher suggested that the evil might be lessened by the publication of campaign expenses and Mr. Fowler went further and suggested the publication of the names of the contributors.

He was still dealing with his first point when the court adjourned for luncheon.

AFTERNOON SESSION.

Mr. Fowler went on with his address to the commission when the court resumed after lunch.

Continuing his remarks upon the subject of campaign funds, Mr. Fowler said that they were as old as party government and would be necessary as long as that system continued.

Referring to recent events in Great Britain, Mr. Fowler pointed out that there was no outbreak of indignation regarding the existence of a Liberal campaign fund, and that the chief whip was exonerated after an investigation into the charge that party funds had been invested in the stock of the Marconi company with which the government had large dealings.

As examples of the existence of campaign funds elsewhere, he referred to those of the United States political parties and the militant suffragettes.

"Why should not a man contribute funds to spread the gospel of good politics as he sees it as well as to contribute to the church to spread the gospel of religion as he sees it?" he asked.

Dealing with the charge of extortion Mr. Fowler said that it was possible for a man to contribute unwillingly but without extortion. He distinguished between the Conservative party and the local government party as he claimed the latter was a coalition government, in referring to the contributions of Liberals and declared that there was no evidence to show that they had paid under extortion.

"Why should they pay Mr. Berry without question?" Mr. Fowler asked. "If it was a new proposition to them they would have kicked him out of their office, but they were accustomed to it. They had been tapped before, tapped so hard that the saccharine juices were pretty well drained from them."

As to Extortion.

Mr. Fowler then went over the evidence of the holders of crown lands and made copious quotations to show that there was no extortion. In explanation of Mr. McLean's definite statement, Mr. Fowler said that this witness was in a vicious mood because Brankley had induced him to pay while Brankley himself did not pay, and charged that this had colored his evidence.

Referring to incidents in 1898, Mr. Fowler said "That was a time when my learned friend was a member of the legislature, and a supporter of the government," indicating Mr. Carvell.

Mr. Carvell—"Yes; and you were supporting the same government at that time." (Laughter).

"There has never been a man in the history of New Brunswick who has done more for the province than this same James Kidd Flemming who now is being pounded and traduced," was Mr. Fowler's tribute to the premier.

"Where is the politician or even the statesman who would refuse an offer to raise a campaign fund in a proper manner?" he asked.

Regarding the argument that there was no election in sight when the fund was collected, Mr. Fowler remarked that it was in the same year that the Liberal party had advertised for contributions and, he believed, received something like $200,000.

"If you believe that you should be willing to put the two funds in a pot and split the total. I am quite willing," said Mr. Carvell in a jocular manner, but with evident sincerity.

Mr. Berry's disobedience of the orders to have nothing to do with the fund, Mr. Fowler compared with the action of Lord Nelson in putting his glass to his blind eye and so refusing to see the orders.

Having dismissed the matter of agency Mr. Fowler next asserted that there was nothing to show that Mr. Flemming exercised any control over it.

Regarding Mr. Rundle's evidence, that he was compelled to pay, Mr. Fowler said that he could not find any sense in this.

Since Mr. Fenderson's contributions had not been shown to have gone farther than Mr. Berry, Mr. Fowler did not think it should be charged to Mr. Flemming.

After brief reference to other features of the evidence, Mr. Fowler made an appeal on behalf of Mr. Flemming, saying that it was a matter of great importance to him whether he should be cleared of these charges or should go out of the court a disgraced man.

Referring to the collections he added that there was nothing reprehensible about Berry's conduct except the fact that he kept so much of the money for himself.

Mr. Carvell's Argument.

Mr. Carvell, after a reference to the speech of Mr. Fowler as an able "political declamation", said he would begin his argument from the point of view and the point of law, that the timber licenses of the province would have expired in 1918 and that prior to legislation they would then have reverted to the province. They were, outside the dominion subsidies, the only great source of revenue to the province and accounted for one-third of the total revenue. By the legislation that was passed in 1913, the ownership of the timber limits would have been handed over to the then lessees for twenty or thirty years, on the payment of the bonus which was to be fixed by July 1st. The handing over could be done at the "ipse dixit" of one man, Hon. J. K. Flemming.

There was only three months for the classification of the lands. In that time Mr. Berry went round getting some sort of information about the lands. Mr. Flemming knew that by the act only three months were allowed. It never was the intention of the government to make the lumber classification. Both Mr. Flemming and the government knew that the spring months were not the months to get round for classification. When he saw the advance copy of the act, Mr. Carvel said he was in Ottawa and at the time thought there was some special reason for the proposal.

It had been argued that the question of the contributions was one of a political nature, but when the lumbermen of the province were asked on the eve of the renewal of their licenses to contribute in the way that had been done, it removed the matter from politics.

There was no record of any one man who had given evidence who could be said to have volunteered a dollar of the money until asked by Berry. Not a dollar of the money was asked or contributed until after the Barker House meeting on June 20, between Berry, Flemming, Brankley and Teed. It was claimed that prior to that Mr. Flemming knew from Berry that a fund was to be raised. It might be said that Berry lied to Mr. Flemming, but in Mr. Carvell's judgment Mr. Berry did what he was told to do or what he knew would be accepted by his superiors.

Extortion Claimed.

Mr. Carvell then entered into a long argument to show that there was extortion on the part of Berry. Berry was an official, a man with whom the lumbermen had been dealing for years; he was the only man who had the right to say that the amount of stumpage should be on the government land, and he was especially assigned by the premier to say what the amount of the bonuses should be.

Replying to Judge Wells, Mr. Carvell said that an act of extortion could be done by an official by reason of his position when the same act in another person would not have the same weight. The mere asking by an official in the circumstances was enough to make the request of a different kind.

Answering the chairman, he said the extortion in Mr. Burchill's case was shown by the fact that he paid the money because it would be good business, he thought. He added that many of the witnesses had only given enough evidence to keep within the law, and that he had much trouble with many of them before they would give evidence at all. Two-thirds of the witnesses, continued Mr. Carvell, said that Berry came to them after they had talked over the matter of the payment of $150 a mile. Berry told them that there had been a dispute in the government and that some wanted the bonuses to be $150 and others $100, adding, "I think I may tell you it will be $100."

Judge Wells—In that circumstance it would be bribery.

Distinction With Difference.

Mr. Carvell—"No, I think it would be extortion."

Mr. Carvell then pointed out that in the case of a private person going to the lumbermen and demanding money for the promise of future favors, that would be bribery, but as Mr. Berry had the power behind as an official it was extortion. He had the power to fix the bonus at $150, because he was an official. Every act and word of Mr. Berry affected the lumbermen, while the acts and words of a private person would have been of no effect.

Mr. Carvell then went over many of the witnesses' evidence in some detail to show how they were influenced by Mr. Berry's acts. He showed how Berry repeatedly went to some of them and of how some of them were easy victims, but in each case they were influenced by the position that Berry held as chief scaler—the man who would later have to control all their dealings with the government.

Chairman—Would you go so far as to say that it was the relationship that made the extortion?

Mr. Carvell—"I think a man in the position of Berry, while in the position to create in the minds of the lumbermen the idea that some benefit or damage might accrue, asking for money or refusing, made it extortion. It was what was operating in the minds of the donors when they agreed that we have to consider."

Judge Wells.—Admitting that the money was for a campaign fund would it be extortion?

Mr. Carvell.—Yes, because the idea that the donor would get into his head would be that he was contributing to a campaign fund that was wanted by the head of the department. The reasons for the extortion would be the same.

Chairman.—You say that to get a man to the point where he says he will contribute because it is a benefit to him is extortion?

Mr. Carvell—Yes, if it came from an official like Mr. Berry.

Mr. Flemming's Position.

Having dealt with the evidence of Messrs. Fenderson, Rundle and Jones—

Mr. Carvell went on to show the part taken by Mr. Flemmng. He said:

"Right at the outset I say that in my judgement the strongest evidence against Mr. Flemming in the whole case is the evidence which we have not got in the presence of W. H. Berry. There is no use in Mr. Flemming or Mr. Flemming's counsel telling me and the people of this country that the chief officer of the department, a man with whom he had held the most confidential relationship, with whom he went to St. Stephen from McAdam on June 3 and who left on June 4—it s no use telling us that he left without Mr. Flemming's knowledge or consent. There is no use his saying he did not have a hand in getting the man out of the country and keeping him out. The best evidence of that is when I asked him 'Will you sign a telegram to come back', he refused with indignation. I know that this is not positive and that it is circumstantial evidence but you heard circumstantial evidence so strong that if we were in a criminal case before any judge in the land he would instruct the jury to take this as evidence in coming to their verdict. You have only one side of the story. There are only two men in the world who can tell you the actual facts of the payment of money. One is James K. Flemming the man who is charged and who is fighting for his political life and the other W. H. Berry, the man who has fled his country. Mr. Flemming is fighting for his political life and he tells you half of the story. The other one has no political life at all and whose position has gone, who has got away from the court and we have no means of learning what he would say upon oath.

Mr. Flemming says that Mr. Berry came to him some time in June and said the lumbermen wanted to contribute to a fund. Well, I don't say that is a falsehood so far as Mr. Flemming is concerned but I think if he did it was a falsehood he told Mr. Flemming. All the evidence is that the lumbermen contributed because Berry wanted them to.

Judge Wells.—Is there evidence that they had spoken to Berry before the date?

Mr. Carvell.—No not until June 25. The only person whose evidence is unsatisfactory in that respect is Fenderson's. Mr. Carvell then quoted the evidence given by Mr. Fenderson which left the date in doubt. With that possible exception, however, Mr. Carvell said that none of the lumbermen were approached before June 25 or even June 26.

What Flemming Told Berry.

Going on Mr. Carvell said: Mr. Flemming on that occasion (the conversation with Mr. Berry) said he told Mr. Berry 'It will not do for me to handle the money nor for you to receive it.' I can quite understand Mr. Flemming saying that. The men who will put up a job of this sort are capable of something more. You cannot hear that without coming to the conclusion that there was something else also. It would not be necessary for him to give instructions to Berry to go and collect the money at the rate of $15 a mile. Nor to say that if they did not contribute they would not get their licenses renewed. Anything which shows that Berry went out and gathered in this money with the knowledge of Mr. Flemming is sufficient to meet the requirements of this commission."

Answering a question by the chairman Mr. Carvell said there was an element of extortion in the fact that the lands were to be classified and the lumbermen were under the impression that they might have the control of their lands, if they contributed, for twenty or thirty years. He had watched Mr. Flemming, he said, very carefully, and all he had said was that he told Berry that he must have nothing to do with handling the money or in getting it but he did not say he was to have nothing to do with getting up the scheme.

After Berry saw Mr. Flemming first he did not say anything but he went home and saw his intimate friend, Mr. E. R. Teed and he agreed to act as treasurer of the fund. He did not tell Berry to touch the money but he said in effect, "you must not touch it but if it is to be collected the man to take it is Teed, he is a good man for that." It was preposterous and nonsense to say as Mr. Flemming did that he did not know the money was being collected.

"Why for a man holding the position of premier of the province when his chief scaler comes to him and says the lumbermen want to contribute to a fund, who goes home and sees his closest friend and then finds he is ready to act as treasurer and who then says to Berry 'My friend Mr. Teed will take care of the money'; and when Berry goes out and collects the money, it is absurd to claim that Mr. Flemming did not direct him."

In support of this Mr. Carvell read a part of Mr. Brankley's evidence. He added that up to June 20 Mr. Flemming had had at least three conversations with Mr. Berry. The four men all appeared at the interview in the Barker House at Fredericton between June 20 and 26. Mr. Flemming said he told Berry he was not to touch the matter and yet Mr. Teed said that Berry was the man who telephoned to him to come to Fredericton to see the premier. When Mr. Flemming said that he was not informed until June 20 or so what did he think when Mr. Berry brought Teed and Brankley to him at Fredericton and into his own room?

The Man Responsible.

"Why," said Mr. Carvell, "how can anyone say he was not the Alpha and Omega of the whole transaction. When the principals met they went at once into the premier's room and Mr. Flemming said to Mr. Brankley 'Anything Mr. Berry tells you about this man (Teed) is all right.' Then Flemming went out and Berry said to Brankley, 'This is the do believe Mr. Teed feels very badly indeed about the position he has been placed in—While Mr. Teed's memory was at first a little weak—I think that in the end he tried to give the substance of the story. A little closer attention to the matter would have given better results.

Knew of Jones' Payment.

"Then you have the fact that Mr. Flemming knew what these men were doing in trying to get money out of Mr. Jones. That was ratification of everything that had been done in the connections of Berry and Teed. It was Teed too who went to see F. E. Sayre though he did not get the money and Mr. Teed admitted that he went to the Partington Pulp and Paper Company three times. If you have nothing else in this record you have in that transaction enough to connect Mr. Flemming with the whole business.

Going on Mr. Carvell said that the premier allowed his officials and nominees to go round and obtain money from the lumbermen at the very time when he would be renewing their licenses he became responsible for everything that was done.

Chairman—Even if Berry said there was a desire to contribute to the campaign fund?

Mr. Carvell—Even then we could say so but we are not confined to that argument because we have the Barker House interview. Mr. Flemming knew that they had gone out and that they had come back and reported to him. It shows that Mr. Flemming had the control of the whole thing. There cannot be any question of his knowledge and consent. It is included in the other case.

"There is another thing. A great deal has been made of the fact that Mr. Flemming has received no benefit. But in the first place we know that he got rid of the payment of insurance on $15,000 on his lumber, and if you want any evidence that Mr. Flemming was the whole beginning and end of this it was man (indicating Mr. Teed) you are to pay the money to? It is exactly the same thing as if Mr. Flemming said 'You will pay the money to Mr. Teed.' Mr. Flemming took the direction of this matter from the beginning. He named the treasurer and after he had been telephoned to he ratified the arrangement by consent. Flemming sent for Teed through Berry and Berry sent for Brankley and when they came together in his room he said the money should be given to Teed. He took charge right up to this point.

It is true that not a dollar had been paid or promised but Mr. Flemming had set the whole machine moving and had laid the trap and brought the whole conspiracy up to the point and then he sends his men out. He who now wraps the cloak of innocence about him sent the men out to relieve the lumbermen of $100,000 just before he was going to renew their licenses."

"And yet," said Mr. Carvell with infinite scorn, "we are asked to believe that Mr. Flemming was not the man who directed the whole thing."

"I have no word against E. R. Teed," went on counsel for Mr. Dugal. "I don't think there is a man who honestly and sincerely regrets his transactions more than does Mr. Teed. I feel it is my duty to say this. He and I have been townsmen ever since we were young men and I in the fact that when Mr. Teed thought he was about to pass out of this world he handed the whole thing lock stock and barrel to Mr. Flemming and Mr. Flemming had the money under his control and subject to his direction for five or six weeks during the winter."

A Sordid Tale.

"I do not wish to say anything harsh. I have tried to present this case all through as a lawyer and as counsel for Mr. Dugal. But I submit that the tale told here has been as sordid a one as I have ever heard disclosed in a court or listened to from witnesses. Mr. Flemming must have been cognizant of this thing and must have known of everything that Berry was doing and directly or tacitly told Berry to go ahead and put the seal of his approbation upon every act which Berry was going to do before he did it. But he took care to find a treasurer, for he could not trust the others to handle so large a sum. He did not allow Berry to get the money but he said, 'Go ahead but you must not handle it E. R. Teed is the only man I can trust to handle it.'

"It may be a hard matter for Mr. Flemming but I have no alternative and it is not my concern but from the evidence I cannot conceive how it will be possible to bring in a report other than that these charges have been proved from the beginnig to the very end."

The chairman then announced that the commission would adjourn until Friday next, at 10 o'clock.

The chairman asked if the evidence in the Valley railway case would take up much time. Mr. Carvell replied that there had not been any attempt made to get the books of the company. It was, he said, a pretty hard thing to say, but he did not believe any one of the other side when they said they could not get the books. He would like to see Mr. Gould brought back and ask him why.

"Let us get an adjournment long enough," added Mr. Carvell, with some warmth. "Let the government of this country do its duty and order the books to be brought here, and we will close the argument in one day. This is no play. I mean business. If we get the books here I know you will get something on the question of diversion which will startle you. I have no hesitation is making the statement. It is evident that there is something there which ought to be here."

Com. Fisher—Well, the government knows the views of the commission.

Mr. Carvell—I will tell you that the other side have no intention of bringing the books here. They have been laughing up their sleeve. They don't intend to, and they will not bring the books here until the commission makes a demand for them. It has got beyond the time for soft words. Here is a company handling between $5,000,000 and $6,000,000 of the province's money and they take the books to New York. It is a disgrace and an insult which no counsel has a right to offer to the people of New Brunswick. The government of the province can get the books if they do their duty. The government now own a majority of the company's stock and the people are entitled to a strict account.

Chairman—We will resume on Friday next at 10 o'clock.

Mr. Carvell—Then I give notice that I will persist in refusing to argue the case until these books are here.

Mr. Teed—Are we to understand that the case will not be closed until the books arrive?

Mr. Carvell—I am not prepared to argue without them. I have been hoodwinked long enough.

Mr. Teed repeated that he did not think that if the books were produced they would offer anything—

Chairman—And I think you feel that they should be here.

Commission then adjourned.

BRITISH WARSHIP TAKES STEAMER WITH $2,500,000

Rich Prize Taken Into Plymouth With Many German Reservists on Board—Some of Gold Consigned to London's German Bank.

(Special Cable to The Telegraph and Montreal Gazette).

London, Aug. 7—The Holland Esche Lloyd steamer Tubantica, with passengers from South American ports, bound for Amsterdam, was brought to Plymouth by a warship today. Her passengers included a number of German reservists. She had $2,500,000 gold aboard, a portion of which was consigned to the German bank in London.