FIRST SITTING OF COMMISSION

(Continued from Page One)

leave to use a highway which had not been adopted. The railway seemed to have taken that road because it was most convenient and without consulting the convenience of the public. The decision of the committee was that the railway should take such steps to make the place safe as the chief engineer to the chief commissioner of lands and works should require, with permission to appeal to the commission in case the conditions were found to be too onerous. The decision presumed that the requirements of the chief engineer would be reasonable.

In the matter of street crossings of the Hastings townsite Mr. McNeill stated on behalf of the Great Northern railway that certain crossings and overhead bridges had been put in, and the rest would be constructed as soon as the streets were opened up. An order was made accordingly.

Crossing at Nanaimo.

Mr. McLean on behalf of the chief commissioner also had a complaint to make regarding a crossing at Nanaimo which he said was caused chiefly by the Wellington Colliery Co. intruding on the highway there. He wanted an overhead crossing there. The E. & N. also were intruders and he said that at that time the colliery company and the railway company were practically under one ownership. Mr. Mabee wanted to know why the colliery company had not been indicted, to which Mr. McLean replied that such a course might yet be necessary. The colliery company was not represented although served with notice, and Mr. Maurice Hills had been observed in court not long before. With this crossing the railroad tracks would not be crossed between Ladysmith and Nanaimo.

Mr. Irving being examined, stated that this main wagon road had been in existence for a good many years, and not only before he came to the province but also long before the E. & N. was constructed. This road was traversed by both the E. & N. Railway and the Wellington Coal companies' tramway. These crossings were three in number, two concerning the coal companies tramway, alone, and the third involving a double crossing, the wagon road was crossed both by the coal company's tramway and the E. & N., and what made matters much worse, within 100 feet of each other and at a sharp corner which unquestionably made this point a very dangerous place indeed. While further, and this was one of the strongest objections to the Colliery Company's tramway crossing, this wagon road lay in the fact that the people who used the road never knew when these trains might be expected as no regular timetable existed.

In the case of the E. & N. Railway, however, the case was different as the time when the trains might be expected was definitely known.

The remedy suggested for this state of affairs was the construction of a new wagon road for a short distance on the east side of the railway for the conveyance of neighboring farmers tracks, and an overhead bridge crossing to replace the double crossing mentioned which would very effectually abolish level crossings throughout the 18 miles separating Ladysmith from Nanaimo. This overhead crossing would be about 500 feet in length and cost about $6,000.

Mr. Drury, the commission's engineer, who had examined this locality was however of the opinion that this overhead crossing and bridge was not absolutely required, but nevertheless, held that it would be infinitely better to do away with the level crossings altogether at this point and particularly so owing to the fact that much traffic which was moreover constantly increasing passed over this piece of wagon road. The Wellington Colliery Company was unrepresented, but the Deputy Attorney-General explained that due notice of this application had been served upon the company's official representatives.

Chairman Mabee—"Has this Colliery company power to construct a line of railway."

Deputy Attorney-General McLean—"I am informed that it was constructed practically upon the company's own land."

Chairman Mabee—"What is the difference between an ordinary railway and a tramway?"

Mr. McLean—"A tramway company is invested with more restricted powers than is the case with a regular company, but nevertheless in addition to crossing our highways this tramway company has not only charged fares for passage over its road. I may further explain that formerly the E. & N. Railway company and the Wellington Colliery company were practically the same concern, both being in the hands and under the direct control of Mr. Dunsmuir and accordingly it was a very easy matter indeed to come to any arrangement, although I confess that as far as this highway is concerned, I am unable to discover any authority which at all justifies their meandering across it, but highways in the past, at all events, have been considered of so very little importance and such a perfectly negligeable quantity by railway companies that they have crossed them wherever and whenever they saw fit to do so." (Some laughter.)

Chairman Mabee—"Why should not the E. & N. Railway Company contribute towards the expense of the overhead crossing which has been suggested as the best remedy for this difficulty?"

Mr. J. E. McMullen—"Because we will not get any benefit from it and because a crossing will still exist."

Chairman Mabee—"But it will only be a sort of a farmers crossing for the convenience of the immediate neighbors, and there will be no other travel over it."

Mr. McMullen—"Still it will be there and no reason why it should not be generally used exists."

Chairman Mabee—"But it will only be left to suit the convenience of the farmer who are located immediately along that part of the E. & N. line."

Mr. McMullen—"Nevertheless much the same degree of danger will continue to exist as exists at the present time."

Mr. McLean—"There is however a distinct and a very material difference between a farmers' private and an ordinary public crossing."

The Decision

Chairman Mabee in giving the decision of the commission, upon the matter in dispute, said it appeared from the evidence that the Wellington Colliery Company, which was a company incorporated under the Joint Stock Co. Act of this province, had constructed a line of railway over which freight trains which were drawn by steam engines ran crossing this highway and making connection with the E. & N. Railway, which was under the immediate jurisdiction of the Parliament of Canada.

Under section 227 of the Railway Act it was provided that railway companies shall not cross adjoining or indeed any railway lines until leave had been obtained from the board.

He did not know whether or not leave had ever been obtained to join the tracks or to cross the tracks of the E. & N. railway, but nevertheless, in reference to the points of junction this board certainly possessed full jurisdiction as was clearly defined in the statute, although as regarded the particular point whether they held jurisdiction at this point over this Colliery company or not, they proposed to leave to that company to be ascertained by appeal if they desired further to test their exercise of this right. It further appeared from the evidence that there was much cause for danger which was further a constantly increasing factor at this place to the public passing along this highway, and if this Colliery company thought they were prejudiced by the order which the board proposed to issue the opportunity was open to them under the provisions of the act to attempt to get rid of its provisions as far as they were effected through an appeal.

The judgment of the Board was that leave should be given to the chief commissioner of lands and works to construct a highway bridge over these two railways at the point which was shown upon the plan produced and filed with the court. The plans of the bridge, which it was proposed to construct, were to be submitted to the parties concerned in the order and filed with the board for approval. This overhead bridge must, further, be constructed at the legal height above the level of the railroad and be provided with lateral openings, in complete accordance with the board's regulations. The location of this bridge would be over the point of intersection between the lines of the Colliery company's and of the E. & N., where the former crossed the latter, this being their point of junction, and seemed to the board from the evidence that the Colliery company would obtain the greater benefit from the construction of this bridge than was the case with the E. & N., for since the latter company would to some extent be freed from the dangers which were inevitably connected with a level crossing, nevertheless as, owing to the circumstances that certain land owners lived along the line of the old waggon road it would be impossible to close it altogether and consequently this railway company would continue to be exposed to certain dangers, although unquestionably the construction of the proposed new road would divert a very large amount of the present traffic and to that extent the E. & N. Railway company would be benefitted, the board were of the opinion that a fair allotment of the cost of this high-level bridge would be found in the following proportions: The Colliery company should pay one-half, the E. & N. Railway company, one-quarter, and the government one-quarter. The bridge was to be constructed by the government upon these conditions, and if any dispute should arise on account of the expense which was incurred it might be referred to the engineer of the board, who would dispose of it.

Case No. 6, re the complaint of Mr. R. Carter, of Courtney, in respect to the C. P. R. freight and passenger rates to Comox and to Cumberland being taken up, Chairman Mabee announced that as the reply of the C. P. R. Co., to this complaint appeared to the board to be just and reasonable the application was dismissed.

Cattle Guards

Case No. 9: Re the complaint of the Central Farmers' institute, of British Columbia alleging inadequate protection along the lines of railways in this province, as regards cattle guards and the proper fencing or rights of way. Deputy Attorney-General McLean explained to the court he had not understood that the application was so widely general in its character, but the particulars furnished him more particularly concerned the Nicola road upon whose tracks at least six head of cattle had been killed, he would for the moment confine his attention to this line, and submit photographs which would explain the situation more clearly than was possible through the medium of oral testimony alone.

Chairman Mabee: "You can prove anything by means of photographs." (Laughter.)

Mr. McLean: "Here is a photograph which shows a busy old cow walking right across one of these cattle guards."

Chairman Mabee (examining it): "I can see the tracks in the snow of the man who drove this cow across these cattle guards." (Laughter.)

Mr. McLean: "But it, nevertheless, establishes the fact that the cow had no difficulty whatever in getting across. I suspect that the man who was behind her is shown in their other photograph."

Chairman Mabee: "He evidently drove her across and then drove her back again; and she was clearly brought there for this particular occasion."

Mr. McLean: "Here is another photograph, which demonstrates the fact that any intelligent cow can handle this railway company's right of way fence, with the result that in this way six head of cattle have been killed; while the last photograph shows a man driving across and I suppose that this is the same cattle guard which has been already exhibited."

Mr. H. H. Matthews, a farmer who lives near the village of Nicola, being placed in the witness box stated that one of his cattle had been so badly injured upon this railway line that they had been obliged to kill it, while the railway fence was in very poor condition.

Chairman Mabee at this stage interrupting, remarked: "We have had complaints in respect to defective railway fences and defective cattle guards presented at every sitting of the commission from the time that we arrived at Winnipeg, and through all the four western provinces until he have reached this city, and we have accumulated a great deal of evidence, and although some of it has shed new light upon the situation, nevertheless most of it has merely consisted of repetition after repetition, which has not in any way given us any fresh assistance in respect to what in all fairness to the public and in all fairness to the railway companies concerned should be done.

"This matter is now before us for general consideration, and we cannot deal with it in any different manner as regards one locality in one province and another locality in another province, and both my brother commissioner and myself have given the matter a great deal of thought and consideration with reference to what ought to be done, with the view of properly protecting public property in the way of better fencing and of better cattle guards, if that can be possibly accomplished."

Mr. McLean: "I think that this will meet all that the Institute wishes to secure. For I presume that cattle guards and fencing upon any one line of railway will be very much the same as the fencing and cattle guards upon any other line of railway."

Mr. Matthews further explained that in the Nicola valley the cattle ranged at large, feeding upon the bunch grass during the summer months, while late in the season when feed became scarce they came down into the lower stretches and were tempted to cross these cattle guards, in order to reach the better feed, which was to be found upon either side of the railway track.

Mr. McLean: "I do not think that this feature in your case makes any special difference."

Mr. Matthews: "I do not think so, but we should be entitled to compensation."

Chairman Mabee: "That is, however, something which is not at all under our jurisdiction."

Mr. McLean: "You must apply to the ordinary courts of law for that remedy, but have you not as yet secured any compensation for your losses?"

Mr. Matthews: "No, as the railway company will not admit any liability."

No further evidence was taken, and it was understood that the decision which will be reached by the commission in respect to these matters will be made to apply to all similar cases.

Grand Trunk Pacific

The application of the Grand Trunk Pacific Railway company, under sec. 178 of the Railway Act, for leave to take a right of way, 200 feet in width, across government lands between the east line of Tp. 12, R. 13, W. I. M., and the eastern boundary of the province of British Columbia, was ordered to stand over by request, on the understanding that negotiations which might lead to a settlement were pending.

The application on the part of the city of Victoria for an order of the Board either to renew, to rescind or to vary order 373, and for an order under sec. 238 of the Railway Act, that the E. & N. Railway company shall submit to the board the plans and profile of the railway at the place or point where this line crosses land known as the Old Esquimalt Road in Victoria West, and for an order under sec. 237 of the Railway Act to construct a level crossing for vehicular traffic and to remove the existing fence across the said highway, being taken up.

Mr. Taylor having explained he understood that Mr. McMullen wished the board to visit the place in question in order that the circumstances might be more readily seized, it was arranged that the commissioners would proceed to this intended crossing at 3 o'clock of the the afternoon.

Case No. 16—the application of the provincial minister of public works, for an order directing the C. P. R. to provide, construct and maintain a suitable highway crossing at or near a point west of the Columbia River where this railway intersected the Eagle Pass, or at such other point as the board might direct, being taken up.

Deputy Attorney-General McLean explained that this applicating concerned the old Eagle Pass waggon road crossing.

The road in question was established between the years 1883 and 1885, and ran from the place which now bears the name of Revelstoke to this crossing and from thence down to the Eagle Pass landing upon Shuswap lake, and to his own knowledge was utilized by the C. P. R. in the construction of their own line in that locality but as very often happened in similar circumstances the railway, in due course, monopolized most of the local traffic, and consequently this wagon road was not used as frequently as was formerly the case. Recently, however, the C. P. R. division superintendent, Mr. Kirkpatrick, took up the position that this route should be abandoned and another road located. But to this proposition the government agent at Revelstoke replied that while they were quite willing to agree upon another crossing and while he further admitted that this was rather a dangerous proposition owing to the fact that it was situated at the foot of a steep grade, still he maintained that if another route were chosen the expense incurred in making the change should be borne by the railroad company, but this offer was rejected.

The government's position was simply this: the public highway in question was there before the C. P. R. was built and if the route was altered to suit the company's convenience the company should pay the cost of the change.

Mr. McMullen at this point interposed in the argument to say: "There is something in this application and if this case is allowed to stand over until Monday we can, I believe, reach an arrangement."

Chairman Mabee: "We can deal with it now if counsel is instructed."

Mr. McMullen: "I am not instructed very fully in the matter." The case was ordered to stand over.

E. & N. Yards Here

Mr. McMullen then made application for permission to have constructed a short spur of the E. & N. for industrial purposes across Chatham street, in order to facilitate the shipping of goods by Messrs. B. Wilson & Co., the city consenting.

Chairman Mahee: "Are any land owners affected?"

Mr. McMullen: None, with the exception of Messrs. B. Wilson & Co.

Mr. Taylor: "On behalf of the city I beg to say that we fully consent to this application. An agreement has already been reached between the city and the railway company upon certain conditions, and we merely desire to have these conditions recognized and formulated."

Chairman Mahee: "Will you file a copy of the agreement?"

Mr. Taylor: "Yes."

The documents in the case of the complaint of the Provincial Dairy Commissioner in reference to the rates which are charged by the Dominion Express and the C. P. R. Co. upon milk shipments as well as the conditions which are attached to these shipments were filed upon the understanding that the decision which will be given in other similar cases will also be made to apply to these particular cases.

And the court was adjourned until 10 o'clock tomorrow morning.

PROMISE AID TO ORGANIZATION

(Continued from Page One)

trails had already been made, but had been rendered impassible by falling timber, etc.

Mr. Sutton pointed out that the country on Vancouver island was entirely different from anything on the mainland. On the west coast where the undergrowth grew luxuriantly a mile a day was good going where no trail existed. He said that the district was a petrographical province, and large deposits of mineral might be looked for if prospectors could get through to the interior. Taking Comox district as an example, he said that there were three great natural assets. Underground were coal measures ten feet thick, and in places other minerals; above was timber that would run 50,000 to the acre, and when the timber was cleared off, the land was excellent for agricultural purposes.

All the available wealth of Vancouver island was immediately available from the fact that there was ready access to water. Although the island had been settled fifty years, very little was known about the mineral resources. Hitherto the eagle and the Siwash had made it a happy hunting ground, but a new era was dawning.

Nanaimo's Request.

Col. Prior read a communication from the Nanaimo Development association, signed by H. Sheperd, Ezra Cook, Robert Gillard, J. R. McKenzie, Smith Moore and A. Cowle, and asking that the old government trail from the north end of Cowichan lake to Alberni, thirty miles in length, be opened by a road passable by vehicles; that a road be built from Nanaimo waterworks dam for eight or nine miles along the north side of the south fork of the Nanaimo river, capable of extension past Mount Battle to connect with the Cowichan-Alberni road; that a trail be built from the end of Errington road, thirteen miles in a southwesterly direction, to Mount Arrowsmith; that the road on the south shore of Nanaimo lake and the road along Green river be repaired; that an expert on mineralogy be sent to examine these sections and report; and the government endeavor to secure "better terms" from the E. & N. for the encouragement of prospecting in the railway belt.

Mr. Thomson thought the request of the deputation for the sum of $30,000 very modest indeed, and was sure that if the proposed work were done very considerable development would follow. He wished to touch on the matter of land clearing, a considerably more difficult problem. For two or three years the state of Washington had been grappling with a similar problem. He asked the government to include in the investigation to be undertaken by the proposed forestry commission the question of clearing off the land. The mere project of getting the land cleared was not a difficult one. Co-operative corporations could be established by the farmers in the same way as the creameries, and money could be borrowed from the government. But the question was to originate a broad system whereby the settler could be encouraged to log his land and improve it.

Mr. Leiser said that the government had this year made liberal allowances for the various districts, almost double the amounts last year, and he hoped that next year the amounts estimated would again be doubled. He said the present proposition was a business one entirely, Vancouver island was contributing a fair share towards the revenue of the province. By spending a little more money on Vancouver island the government could get a larger return. He said that the league was at work on a scheme for bringing in people here, the details of which it would soon be in a position to disclose to the government, and the two should work together.

Various Suggestions.

Mr. Brewster said that an agricultural expert should be sent out to make a report on certain areas which had already been surveyed, and on which the government already had some information.

Mr. Behnsen pointed out that almost one-half of the island belonged to one concern, and if there was any possible way this company should be induced to give better terms to the settler. Vancouver island was, he said, the storehouse of the world in point of timber. He said that the island was in a different position from any other part of the province.

Mr. Helgesen said that he had a small request to make on behalf of the people of Metchosin and Colwood. He said that Metchosin had fourteen miles oc coast, and no access to salt water. The people wanted a public road from the main highway at Colwood and also at Metchosin.

Mr. McCurdy said that the scheme presented by the deputation was looked upon by the whole island as a fair business proposition.

Mr. Lugrin was heartily in sympathy with everything that had been said by the various speakers. He would endorse the statements made by Mr. Brewster regarding the paucity of information as to the land in certain districts.

Mr. Davey said that the plan submitted was a practical, feasible scheme. He was surprised to see that the League had done so much in so short time.

Mr. Shallcross said that in a recent interview Mr. Templeman had said that the Dominion geological survey was prepared to do some work on Vancouver Island, but that the difficulty was the impossibility of getting through the country. If trails were improved it would greatly facilitate the work of the Dominion government in this respect.

Col. Prior here announced that he, with Mr. Leiser and Mr. Key, had succeeded in a few hours in raising $4,000 in Victoria towards the scheme proposed.

Premier in Reply

Premier McBride, in reply to the deputation, said that although the capital city of Victoria provided on Vancouver Island, the amount of exploration and development work had been relatively small as compared to the other parts of the province. The physical difficulties told on that. Mr. Sutton had played no small part in this.

Regarding the request for a grant of $30,000 for trails on Vancouver island, and the improvement of existing trails, he stated that the estimates for the year had been adopted by the Legislature, and this session the government would not ask for any more appropriations. However, the state of the treasury had made it possible to have a large sum voted for miscellaneous and contingent expenses. Where conditions warranted, there would be no difficulty in Vancouver Island getting a fair proportion of this vote. He said that $30,000 had been granted for roads, trails and bridges on the Island than was voted the previous year.

As for the Dominion government, if representations were made to the Department of Public Works regarding plans on foot this year, there would be every disposition on the part of the government to cooperate with the federal authorities as far as was in the public interest.

Commends Proposal

He said that Mr. Thomson's suggestion of leaving to the decision of the forestry commission the question of the clearing of land was a good one. This was a very difficult and complex problem, and so far it did not seem that a plan had been evolved that would satisfy all the conditions. If any government came in and aided in clearing the land, some compensation would have to be made the old pioneers who made slaves of themselves to get their holdings cleared.

He was surprised to hear that the citizens of Metchosin had no right of way to the sea. The question of getting down to the sea had been freely discussed of late in the Legislature, and the ministers could well claim to be owners. Mr. Helgesen's remarks had made an impression on the Minister of Public Works, and there would surely be no difficulty about giving the Metchosin people access to the sea.

Mr. McBride closed with his eulogy of the Development League and its work.

Col. Prior moved a vote of thanks to the government for their courtesy and promise of cooperation.

FIRST HAND INFORMATION

Railway Commissioners View Location Where City Wishes to Cross E. & N.

(From Sunday's Colonist)

Yesterday afternoon the railway commissioners accompanied by Mayor Hall, City Barrister Taylor, City Solicitor Mann, City Engineer Topp and D. S. Tait, the latter having been retained by some of the residents of Victoria West, went over to the site of the E. & N. railway crossing over Old Esquimalt Road, where the city desires a level crossing to be put in. The city has now an application before the railway commission asking that the board rescind its former order closing up the roadway across the railway line. The trip was made for the purpose of letting the commissioners see for themselves the situation as it now exists.

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SIX MEASURES PASSED HOU

Legislature Did Much Wo Afternoon Sitting Yes terday

CONSIDER THE ESTIMA

Leader of Opposition Criti Sums Spent in His Co stituency

(From Saturday's Daily)

In addition to getting a large of the estimates out of the wa legislature yesterday passed five lic bills and one private bill t the final stages.

The public bills in question The Bill to amend the Court of A act; the bill to amend the Hi Traffic Regulation act; the b amend the Companies act; the amend the Placer Mining act; a bill to amend the Reformatory The private bill was the bill corporate Westminster Hall.

Upwards of a million and a dollars in estimates were dispo in connection with the civil gover salaries and the supplementary ates. In connection with the Mr. Macdonald (Rossland) rai protesting voice in several ins declaring that the supplementa timates for the public work of th vince in many cases exceeded t iginal votes for these purpose charged political motives for th

Mr. Macdonald's most imp criticism was that in connectio the Rossland-Trail road. Al this work was performed in gre in his constituency, Mr. Macdon ciared that it was a waste of money.

At the opening of the House items in the estimates which ha allowed to stand over from Th were considered. The first w sum of $280,000 voted for s throughout the province. The ter made a detailed e ation of the purposes for whic sum was intended, and added th fiscal year 862,399 acres of lan been surveyed, 670 miles bein versed, the cost being $126,478 Fulton said that the sum of was to be spent on survey at Rupert.

Game Protection

The item of game protection, was set down at $20,000 provok amusing debate. Mr. Macdonald the case of one Manson, of L who had been fined by a mag on the information of a game w for assisting in shooting mo sheep out of season. Appeal ha taken to the county court, an judge, while admitting that the re case, refused to admit the because Manson had deposite cheque instead of cash.

Mr. Fulton said that Manson guide for two New York men shot the sheep. They had been and paid the fine gladly. Manso offered the defence that he di know that his clients were go shoot the sheep.

Mr. Bowser said that the Crow unfortunate in the appeal becau chief witnesses, the New York g men themselves, had left the pr when the case was heard.

Mr. Hawthornthwaite (Nan asked what the $20,000 included

Mr. Fulton said that it was the salary of the game wardens a month, and travelling exp There were four or five warden year, but this number was to creased. The sum might also b to provide a steam launch for ling about the island.

Mr. Hawthornthwaite complai the alleged American sports who over each year to wipe out the He also said that some of the lite issued by the government need vising.

Mr. Brewster (Alberni) want know whether complaints of sports had been received from island. The chief commission plied that he had received com and would act at once.

Mr. Hayward (Cowichan) stat there should be some grant fo viding bounties for horned ow golden eagles. The former kill grouse and pheasants, and the the mountain sheep. He mer one instance where he had kill pheasants one season in a certa trict and could find only six t lowing year, attributing the d tion to the owls.

Mr. Hawthornthwaite though bounty suggestion a good one. ever, he would go farther and s a bounty also on game hogs, killed 100 pheasants in one ye then get up on the floor of the to tell about it.

Mr. Williams (Newcastle) t that two or three of the "Kn bocker club" of Victoria had no to speak for the whole of Van island. He said that the Ja were the worst game hogs in th vince and protested against the of allowing the game wardens C. P. R. to act.

Mr. Eagleson (Lillooet) spoke vor of the bounty on eagles. H that these birds killed the young He had seen a herd of 75 shee not a lamb among them.

Rules of the House

Under the item of civil gove salaries, which included a sur of $367,440 not a question was by the Opposition, but when in connection with the adminis of justice were taken up, Mr. W (Newcastle) objected to the i $1,620 under the factories act measure, he said had been int in the House by the member Islands, although it involved penditure of money. He claim the rules of the House were only on the Opposition side.

Mr. McPhillips, in reply, sa the criticism of the Socialist m was due to jealousy because t not thought of this step to h workers of the province.

The House passed to the mentary estimates, involving an diture of $1,030,682.55. Mr. Ha thwaite (Nanaimo) held up the $10,000 in connection with the culosis sanitarium which was tion to $10,000 already voted, what this institution had receiv public charity. He said that t tarium should be a public in conducted wholly by the provin