Mr. Morison's Defence

First Letter in Reply to the First F. P. U. Memorial--An Extraordinary Production.

ATTORNEY-GENERAL TO PREMIER.

Attorney-General's Office,
St. John's, Nfld.,
10th April, 1912.

Rt. Hon. Sir E. P. Morris, Kt., K.C., Prime Minister.

Sir,—I have the honour to acknowledge receipt of your letter of the 1st instant, enclosing a comunication from His Excellency the Governor covering an original letter, with enclosures, from Mr. W. F. Coaker. I have carefully read Mr. Coaker's letter and the documents enclosed therewith, and now return same to you together with His Excellency's letter.

(Then follows a statement which admits the documents cited in the two memorials and the statement of facts about the incorporation of the Anglo-American Development Co., Ltd., and the grants of right to cut timber, etc.

As there is no controversy about the facts, which have already been published in the Memorial we proceed to publish Mr. Morison's comments.)

All these facts appear upon the records of the Crown Lands Department and are open to any member of the public. I refer to them in detail to show that the applications of the Company differ in no respect from the thousands of applications for licenses to cut timber in Newfoundland and Labrador which have been made to the Crown Lands Department during the past quarter of a century. The Company's applications were treated in exactly the same manner as all other applications for licenses to cut timber and no preference of any kind was shown towards the Company and no advantage of any kind was given to it over other applicants. On the contrary where other applications had been filed for the same property the Company's applications to that extent were refused and in every case where the Company's applications were approved no other person had made application. In other words, any other person who made an application under the Crown Lands Acts for these areas would have been entitled to and would have received exactly the same treatment as was given to the Company in respect of these applications.

Under sections 2, 23 and 24 of the Crown Lands Acts, 1903, any person is entitled to apply for a license to cut timber off Crown Lands in Newfoundland or Labrador. The applicant is required to publish in the Royal Gaette for one month notice of his intention to apply for a license and this notice shall contain the name and address of the applicant and must describe the boundaries of the area applied for. At the expiry of the notice a petition is filed in the Crown Lands Department. This petition is considered by the Minister of Agriculture and is forwarded by him, together with his report and recommendations thereon, to the Executive Council. If there are competing applications for the same piece of land the Council deals with them according to the facts disclosed by the Minister's report and, other things being equal, regards priority of notice as a determining factor when considering the applications. If there is only one application the practice has been to approve of it as a matter of course. In the present case the Company was treated in exactly the same manner as any other applicant. Where there were prior competing applications the Company's applications were rejected. Where there were no other applications they were approved.

There is this much further to be said with regard to the Company's applications. As you are aware, during past years applications have been approved for licenses to cut timber over many thousands of miles, and only a very small percentage of the applicants have paid the bonus and first year's rent as required by the Crown Lands' Act. Upon failure to pay the bonus and first year's rent the land reverts to the Crown and it was a frequent matter of comment by our late Governor, Sir William MacGregor, that during his tenure of office he had approved of a sufficient number of applications for timber areas to more than cover the whole of Newfoundland twice over. I enclose a statement from the records of the Crown Lands Department showing the total mileage of timber lands approved during the years covered by the statement and the proportion of this mileage upon which the rent was paid. You will notice what a large proportion of these lands reverted to the Crown because of non-payment of bonus and rent.

Prior to 1909 the total revenue of the Crown Lands Department from timber, minerals and all other sources in any one year did not exceed $59,000.00, and usually it was far below that figure. The Company has paid to date $55,412.00 for bonus and first year's rent, and $27,706.00 for extension of same for survey, making a total payment to date of some of its areas last season, costing $83,118.00. It completed a survey of some thousands of dollars, and has had a survey party at work since October last, which it hopes will be able to complete the survey of the balance of its areas by June next. I regret to say that the Northern areas taken up by the Company, and of with the survey has been completed, have been found to be devoid of timber and absolutely worthless, and that the large amounts paid by the Company for rental and survey have been wholly lost.

These are the whole of the facts in relation to the matters referred to by Mr. Coaker in his letter, and the animus and obcet of Mr. Coaker in bringing them under the notice of His Excellency at this time is very apparent on the face of the letter itself. The multiplication of the mileages into acres and the prominence given to the size of the area held by the Company furnish fair illustrations of the desire on the part of Mr. Coaker to exaggerate a situation which he endeavours to create and his intimation at the end of the letter that he "shall deem it advisable" to publish the letter to His Excellency, and his publication of same on Saturday last in the Fishermen's Advocate and in the Evening Telegram and Evening Herald newspapers, the recognized political organs of the Opposition party, disclose his purpose in writing the letter at this time. I shall deal with this more at length later. For the present I shall confine myself to the inferences which Mr. Coaker attempts to draw from the facts outlined in his letter.

Mr. Coaker says:—"The fact in itself that a Minister of the Crown "and his associates in the Company "should obtain possession of such a "vast concession from the Executive "Government is inconsistent with the "honour of a Minister of the Crown "and with the duty which the Hon. "Donald Morison owes to Your Excellency and to the public as a Trustee "of the Public Domain."

This if it means anything, is an attempt on the part of Mr. Coaker to impeach my integrity as a member of the Executive Government. Unfortunately for Mr. Coaker there are no facts to sustain the inference which he attempts to draw. In the first place I had nothing to do with making or filing the applications. This was done by Mr. Charles W. H. Tessier, the President of the Company. I took no part in any of the proceedings of the Council which dealt with the applications made by the Company. On the contrary no "concession" of any kind was "obtained" by the Company from the Executive Government and no "concession," preference, privilege or advantage of any kind was "obtained," or given to, or received by the Company. They were reported upon and recommended by the Minister of Agriculture & Mines and so much of the areas as was not covered by other applications was approved by the Executive Council. Full information in relation to my position towards the Company was accessible to any member of the public who was sufficiently interested to enquire at the Registry of Companies, and full information in relation to the Company's applications was available to any person who enquired at the Crown Lands Department. In fine, there were no reasons why the applications made by the Company should be treated and dealt with in any other manner than that complained of by Mr. Coaker. The rule adopted by the Government in dealing with applications for timber licenses is to prefer the first applicant unless there are substantial reasons to the contrary. In the case of the Company's applications there was no other applicant for the areas which were approved to the Company, and when there were competing applicants for the areas applied for by the Company the Company's applications to that extent were rejected. If any other person had made application for the same areas under the same circumstnaces their applications would have been approved as a matter of course and treated in exactly the same fashion as were the applications of the Company. Only a person looking at this transaction with the jaundiced eyes of Mr. Coaker could possibly be responsible for the insinuations which he attempts to make. My chief regret is that the surveys already made show that four-fifths of the property approved to the Company is absolutely worthless, either to the Colony or to the Company and that the money which has been invested in it is wholly lost.

It is a regrettable fact that up to date there has not been a single timber property developed in Labrador. Many thousands of miles have been applied for, but in the majority of cases they have been reverted to the Crown for non-payment of rent. Mr. Alired Dickie, an experienced lumberman of Nova Scotia, is the only person who erected and operated a saw mill in Labrador and his experience was so disastrous that he was obliged to abandon the venture after two seasons operations, and after having suffered very heavy losses.

Mr. Coaker further says in his letter: "The point in these transac"tions which concern public interests "is the dual position held by the Hon "Donald Morison. On the one hand "he was one of the original incorpora"tors of the Company, its Secretar" "and a Director.

"On the other hand the Hon. Don"ald Morison was Attorney Genera" "and a member of the Executiv" "Council. In other words he was a "party to the application and a mem"ber of the Executive Government "which approved of the application "His office as Attorney General and "his position in the Ministry impos"ed upon him the duty of being ac"tive, alert and ever on the look-ou" "to safe-guard public interests. This "is the duty which cannot be evaded. "neglected or allowed to become pas"sive, if public interests are to b" "conserved, and it is absolutely in"compatible with any personal inter"est in applications for concessions "from the public domains over which "he is virtually a joint trustee who "cannot lay aside the fiduciary over"sight he is bound to exercise."

I might answer this shortly by saying that the facts outlined in Mr. Coaker's letter and by me, about which there is no dispute, show that in the transactions which he complains of, I and the other members of Council have been "active, alert and ever on the look-out to safeguard public interest" and that no duty which we owe to the public, or to His Excellency as the representative of His Majesty has been "evaded, neglected or allowed to become passive." It is true that I was "a member of the Executive Government, but it is equally true, as I have already stated, that I took no part in any of the proceedings of the Council which dealt with these applications.

I think, however, that it may be desirable to discuss at greater length the question raised by Mr. Coaker, as a similar question may arise at any time in connection with any other member of Council who may be similarly situated.

The question raised by Mr. Coaker may be stated for the sake of clearness, as follows:—

Ought a member of the Executive Council, who is a shareholder of, or who is Solicitor for, an Incorporated Company which has or is likely to have any business relations with the Government to continue to hold his seat as a member of the Council after he becomes such shareholder or Solicitor?

In order to answer this question one has to ask first whether there is any law on our statute book dealing with the matter and what has been the practice and usage in the past where the circumstances are similar. The only law that I am aware of which may be regarded as in any way analogous to the question under discussion is that relating to Legislative Disabilities and the Vacation Seats in the House of Assembly contained in Chapter 4 of the Consolidated Statutes (Second Series). Under section 1 of this Chapter no person is eligible to be elected or to sit or vote as a member of the House of Assembly who shall directly or indirectly by himself or by any person in trust for him, or for his use or benefit, or on his account, undertake, execute or enjoy, in whole or in part, any contract or agreement for or on account of the public service; but it is provided that this section shall not apply to "any member of an incorporated body or a member of a firm or trading company, contracting originally or by way of assignment for the public service, when such contract is made for the benefit of such incorporated body, firm or company." This section does not touch the present case. The Anglo-American Development Company did not undertake or enjoy any contract or agreement for or on account of the public service. Even if it had done so there would have been no ground for objection for the reason that it is specifically provided that this disability shall not extend to any member of an incorporated body, firm or company. All that the Anglo-American Development Company did was to exercise the right possessed by it in common with every member of the public to make application for a license to cut timber under the Crown Lands Acts, and which is open to every person or corporation to exercise. The position will be seen more clearly if, for the sake of argument, you assume that the application of the Company, instead of being for a large timber limit, was for a single acre of unimproved Crown land, which any person is entitled to have granted to him in fee simple upon payment of thirty cents. The principle is exactly the same and I can hardly suppose that any intelligent person would argue that a member of the House of Assembly or of the Executive Council should be required to vacate his seat because he happened to be a shareholder or officer of or Solicitor for a Company which applied for a grant of land under such circumstances. Possibly Mr. Coaker has misled himself by fixing his attention too closely on the large mileage of the areas applied for by the Company, which is not a factor in solving the question at issue. The principle is the same whether the area applied for is small or large.

Turning now to the question of what has been the practice and usage in the past in relation to members of the Executive Council who were shareholders or officers of companies or members of firms which had business relations with the Government, I give you a few illustrations which occur to me at the moment, and I have no doubt that a search of the records would disclose other cases of a similar nature.

In the late administration and under preceding administrations, Hon. James S. Pitts, while a member of the Executive Council, was Agent for one or more lines of steamers which carried the mails, under contract with the Government, between this Colony and Canada and Great Britain. Mr. Pitts was also agent for the Nova Scotia Steel Company, which carries on large operations on Bell Island, in close business relations with the Government.

Mr. George Shea, while a member of the late administration and under the Winter administration from 1898 to 1900, was Agent for the Allan Company and negotiated all contracts between said Company and the Government for the carriage of mails between this Colony and Canada and Great Britain.

Hon. Harry Gear was a member of the late administration for several years and during the whole of his term of office his firm of Gear & Company did business with the Government and had large contracts for the supply of heating and plumbing to public buildings and institutions.

The same is true of Hon. George Knowling, who was a member of the late administration and during his tenure of office sold considerable quantities of goods and supplies to the Government for various public departments and institutions. Mr. Knowling was also a shareholder in companies connected with our local industries which were likely at any moment to be interested in changes of the tariff or in other matters which might come up for discussion before the Executive Council.

Hon. E. M. Jackman during the whole time that he was a member of the late administration and holding the office of Minister of Finance and Customs carried on a tailoring and clothing business and sold to the Government large quantities of uniforms for the officials of the Customs and other departments of the public service.

Sir Robert Bond while a member of the Executive Council and Colonial Secretary was President of The Townships Timber and Land Company for several years. The Company while

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