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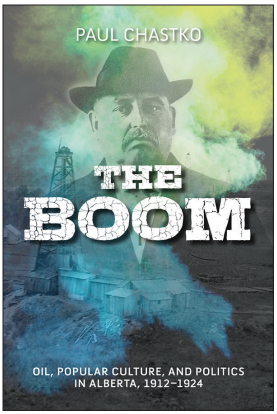

THE BOOM: OIL, POPULAR CULTURE, AND POLITICS IN ALBERTA, 1912–1

by Paul Chastko

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"A Matter of Public Concern:" The Lees Commission and Monarch Oil

As a Shareholder in the Monarch Oil Company, Limited, I want to inquire if the investigation into the acts, etc., of the Officers of this Company at the time of the Oil Boom here is completed . . . . When this is completed it will be easier for the Shareholders to see that Criminal Action is taken against the guilty parties (if Any) and that they receive their just punishment.

—Letter, George P. Ovans to
Attorney General Charles W. Cross
January 13, 1916[1]

The oil probe will be put to work again. Among the accomplishments of our townsman, George E. Buck, was to delay the oil probe for several months. In the meantime, the task of driving the probe home has increased very greatly.

—Editorial,
The Calgary Morning Albertan
July 25, 1916

As provincial officials wrestled with the international dimensions of securing George Buck's return from the United States, efforts to buttress provincial oversight of the emerging petroleum sector continued apace. The disappointing appellate court ruling that brought a swift end to the Carpenter Commission in October 1915 did not mean the end of public complaints to

the attorney general's office, nor of attempts by the provincial government to oversee the petroleum sector. If anything, the ruling strengthened the resolve of the attorney general's office to hold lawbreakers responsible for the excesses of 1914. John D. Nicholson's dogged pursuit of George Buck to Wichita and back offers a particularly compelling example of the perseverance of Charles W. Cross's department. Another appeared early in 1916, when the province amended its orders-in-council, paving the way for the creation of a second oil commission with Judge William Andrew Dickson Lees replacing Judge Carpenter. Commencing its inquiries just as the struggle over Buck's extradition from Kansas reached its climax, the Lees Commission's investigation created other problems for Buck's prosecution as witnesses in the Monarch Oils case raised pointed questions about the reliability of newspaper statements during the 1914 boom.

Crucially, given the appellate court's decision that the original orders-in-council establishing the Carpenter Commission violated the rights of individuals, the provincial government amended the Public Inquiries Act in 1916, giving it far greater powers than it had before. More to the point, the province also moved a second piece of legislation, the first "blue sky" law to address the lack of oversight and transparency revealed by the Carpenter Commission's inquiry into 1914 boom (see Chapter 9). Despite this newfound provincial government assertiveness, the Lees Commission proved much less ambitious and successful than Carpenter's inquiry a year earlier. Some of this is because fewer companies and witnesses remained in Alberta for commissioners to investigate. Furthermore, with the return of prosperity due to rising grain prices and the stabilization of the economy following wartime mobilization, the desperate pursuit of lost funds of 1915 gave way to resignation by 1916. Indeed, a year before, with events still fresh in mind amidst economic misery, Albertans were keenly interested in finding out what happened. Carpenter's truncated investigation revealed enough unsavoury behaviour to enable some to reach their own conclusions about what took place, so the appetite for further inquiries was not nearly as voracious. With fewer witnesses and companies to draw on for material, the commission struggled to find a rhythm and abruptly ended its hearings after only a few weeks after it became impossible to find anyone to testify.

Nevertheless, the Lees Commission generated another legal challenge to the province's ability to regulate the oil industry when William A. Georgeson of Monarch Oil sued his former business partner, James Moodie, for slander for testifying that a sample of oil produced by the Monarch well was "faked." Moodie's defence team claimed the statements were delivered under oath

by a witness compelled to appear before a judicial inquiry under subpoena, granting Moodie immunity. Like Buck in 1915, Georgeson claimed the orders-in-council creating the Lees Commission were ultra vires (outside the law), meaning the commission lacked the authority to subpoena witnesses and compel testimony from witnesses under oath. If the appellate court found the commission ultra vires, not only was Moodie liable for his statements, allowing Georgeson to sue him for $50,000 in damages, but the courts would again declare that the province lacked the power to oversee the petroleum industry's operations.

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Although Buck and Georgeson had joined the search for oil at approximately the same time, differences in temperament, experience, and background distinguished the two. In fact, William A. Georgeson and Monarch Oils seemed the opposite of Buck and his company. Blessed with generous backers and deep pockets, Georgeson and Monarch Oils had every advantage that economies of scale and capital could provide: a geologist on staff to consult and select the company's first drill site, enough cash to drill a handful of wells, and a dominant position in the field around Olds in central Alberta that practically oozed success; expectations for Monarch were sky high. Where Buck craved the limelight, Georgeson shunned it, preferring to do his business with little fanfare. "There is a certain impersonality about the Monarch that made it peculiar among the major companies," wrote the *Albertan* in late 1914, "not a gulf dividing it from any of them, but a subtle, distinguishing difference."[2]

Their approaches to the oil business were radically different, yet both independently and on their separate paths arrived at the same place—where "salting" their wells to drive up stock prices was a rational alternative.[3]On the eve of a corporate restructuring that would see the company expand its capital from $200,000 to $5 million, the company's drillers buried news that they had struck a small seepage of crude oil until the window for original stockholders to expand their holdings closed. The next morning, the company announced the strike, sending its stock prices through the roof, making instant fortunes for those who had held on, or even expanded their holdings, during the transfer period. Company president Georgeson repeated the confident predictions of his chief geologist that the bit would pierce the main oil-bearing strata within the next 400 feet. Over the following weeks, though, the company wound up drilling an additional 3,000 feet and never struck oil. Even before the end of summer, rumours contended that the June 18 announcement was fake and an orchestrated move to drive up stock prices. A

year later, officials with the Carpenter Commission prepared an investigation into Monarch left untested due to Buck's successful challenge of the commission's authority. At approximately the same time, Monarch Oil slid into receivership as the company went bankrupt by 1916. The two largest claimants on Monarch's assets when the company folded were International Supply Company, which claimed they were not paid $4,900 for their work, and geologist Bird W. Dunn, who claimed $4,800 in back wages.

Chartered by William Georgeson, Monarch Oils was not supposed to end in ignominious failure and disgrace. Born in Quebec City in 1859, Georgeson worked for Thompson-Codville, a wholesale grocer with operations in both Canada and the United States, and arrived in Calgary as manager of that concern in the early 1900s. By 1907, Georgeson bought out the business and relaunched it as Georgeson and Company, emerging as a pillar of the community, regularly dining with future prime minister Richard Bennett and other local luminaries at the "Bennett Table"—a separate table with a drawn curtain at the back of the dining room in the Alberta Hotel. His businesses touched on nearly every industry in the city, from wholesales of tea, coffee, and spices to selling coal through the Rosedale Coal and Clay Products Company. In 1912, Georgeson added oil and gas to his portfolio and formed a syndicate to pipe gas from Medicine Hat to Winnipeg, all the while servicing points along the line. Alberta's producers and provincial government both opposed the plan, fearing that exporting natural gas to other provinces would impede deliveries to Albertan communities, but Georgeson never fully gave up on the idea. An active member of the Conservative party, Georgeson earned a stellar reputation for public service and philanthropy as well as a desire to remain out of the spotlight. A brief list of his activities during 1913 alone reveals that Georgeson served on the Calgary School Board, spearheaded efforts to build an electric railway, led a program encouraging local consumers to "buy in Calgary," and served as president of the Imperial Home Reunion Association (formed to encourage immigration by families from England to Alberta).[4]

Georgeson founded the Monarch Oil syndicate following the October 1913 Dingman discovery and a bitter competition with Eugene Coste to secure the right to supply natural gas to Moose Jaw, Saskatchewan. During those negotiations, Coste flaunted his natural gas assets from Bow Island, Alberta, and taunted Georgeson with the fact that he lacked any source of supply. Within a matter of weeks, Georgeson sold off the wholesale grocer business to Minneapolis investors and launched Monarch Oil,[5] capitalized at $200,000, with the first tranche of 100,000 shares issued to investors with a par value of one dollar per share. Monarch Oil claimed a few well-heeled luminaries on

its board of directors, including Winnipeg capitalist William Beach and O.S. Chapin, who also served on the board of directors for Dingman's Calgary Petroleum Products. Unlike the penny pinching at Black Diamond, Monarch Oil seemed determined to do things bigger and better than everyone else. For starters, the company's prospectus revealed that directors and other officers, except for the secretary, former City Councillor George W. Morfitt, would not draw a salary until the company struck oil. Georgeson made a further splash on November 28, 1913, acquiring 56,000 acres of leases (the equivalent of four townships) on the Red Deer River west of Olds in central Alberta. The move gambled that the oil field extended further north than previously thought. At the time, the $14,000 Monarch paid for the leases was the largest sum ever received in a single day by the Calgary land office. Georgeson then hired geologist Bird W. Dunn, formerly of Standard Oil, to oversee its operations. A graduate of the Michigan Mining School in Houghton, Michigan (the precursor to Michigan Technological University), Dunn could claim an impressive run of success—seventy-five consecutive producing wells without a dry hole—in addition to his experience in the Tampico fields of Mexico prior to arriving in Alberta.[6]

After surveying Monarch's holdings, Dunn selected a drill site west of Sundre for the location of Monarch's first well and believed so much in the field that he invested $4,900 of his own money in the company. In February, Monarch generated province-wide attention when it signed a contract with Phillips and Martin's International Supply Company to drill eleven wells on its properties. With a minimum expenditure of $150,000, the contract represented the greatest single attempt to develop the Alberta oil fields to date. When this was combined with Mowbray-Berkeley's announcement that they would install the machinery and plant to drill two wells on their properties, a bolt of excitement surged into Alberta's seemingly moribund search for oil that cold and grey winter of 1913/14. The *Herald's* editorial page believed that the resources committed to exploration by Monarch and the British-backed Mowbray-Berkley "should let us know whether or not we are on the oil map within a few months at the latest." The *Edmonton Journal* concurred, arguing that "these well-financed companies" proved that "plenty of money" remained available to finance promising developments. Drilling on the Monarch well began in early April and struck a flow of wet gas at 633 feet in sufficient quantities that it could now supply the boilers. The reports caused an increase in Monarch share prices on the curb from $3.00 to $8.50.[7]

Just over a week following the Dingman strike, on May 25, 1914, Dunn allegedly reported to Monarch's directors that the well now produced a heavy

flow of wet gas and signs of crude oil, prompting the *Albertan* to pronounce the directors "jubilant." The paper even claimed the drilling contractors trooped from Olds to Calgary to buy Monarch shares. One director, company vice president Robert L. Shimmin, told the paper that an unnamed Vancouver syndicate made cash offers for a few sections held by Monarch but could not secure an acre. The directors, he assured the paper, remained confident in their position that the oil field reached central Alberta.[8] However, considering the future lawsuit filed by William Georgeson against another director, James F. Moodie, it is important to note there was a significant dispute about the provenance of this alleged report and references to it in Cheely's paper, *The Morning Albertan*. Georgeson later claimed as part of a libel suit against Moodie that "a report was made to the officers of the . . . Monarch Oil Company, Limited that oil had been discovered in the course of the said boring operations." Moodie, however, emphatically maintained that "no report worthy of reliance, was ever made" to the directors.[9]

The context and timing of the Monarch's alleged discovery is crucial and reveals some possible motivation for a false report. As the first spasm of excitement after the Dingman strike died down, by early June, several oil companies sought to stimulate investor interest in developing Calgary oil from outside Alberta because of a growing belief that local capital was exhausted (see Chapter 6.) On June 4, 1914, Monarch's directors moved to increase the company's capitalization by releasing the second tranche of 100,000 shares.[10] A public notice in all major Calgary papers indicated that original shareholders could exercise the first option on the new shares and that the company would, in effect, allow shareholders to buy on credit by allowing them to pay the balance owing over the coming weeks. In the meantime, the transfer books and register for members of Monarch Oil Company would close at six p.m. on June 15 until ten a.m. June 18 to enable all holders of the original stock to purchase additional shares in installments at a par value of one dollar. The release of the second set of shares pushed Monarch's share prices from between fifteen and seventeen dollars to a high around twenty-one dollars before June 18, prompting a sizable number of shareholders to sell. Then, on the afternoon of June 16, Dunn summoned company officials to the well site to inform them that he expected the well to strike oil sometime after midnight.

According to the account of the Monarch discovery published in the *Albertan* under Bill Cheely's byline on June 18, 1914, a few company officials, including Georgeson, vice president Robert Shimmin, secretary George Morfitt, and director William Beach, camped out at the well to be on hand

when it struck oil. Almost as if on cue, at 3:45 a.m. on June 17 at a depth of 808 feet, the night shift driller reported finding traces of black oil in the well. Geologist Dunn took the first sample from the sluice box and said to the excited and eager men around him, "It is the real stuff. It is what the oil operators of Alberta have been looking for all these years. It is black petroleum."[11]

Cheely wrote that the assembled directors, drillers, and rig hands immediately recognized the significance of the moment. "In the presence of the fluid that has proven the northern field, [they] shook hands with each other in congratulations." Dunn also predicted there were three oil zones in the Monarch well and the bit had just pierced the one closest to the surface, with the remaining two at depths of approximately 1,000 and 1,200 feet. Dunn remained confident that even if this pocket did not contain large holdings of oil, drilling another 400 feet would certainly do the trick.[12] But Cheely then reported that Dunn noticed the well's gas pressure was too high, and feared it might produce a gusher that the company lacked the equipment and tools to handle. Out of an abundance of caution, Dunn ordered a halt to drilling operations until "a special appliance which will permit the drilling to be continued with the well capped" arrived.[13] Cheely conceded that "it may have to be made to order in the [International Supply] machine shop at Medicine Hat." With a ready-made explanation to account for why no oil would appear despite the driller's recent success, the rest of the article reassured even the most jaded of investors. Then Dunn said something that does not quite make sense. According to Cheely, Dunn told directors that Monarch had found a "considerable" body of oil and suggested to Georgeson that "shooting" the well with a 600-pound "shot" of nitroglycerine would likely be sufficient to "bring a gusher of sufficient strength to blow down the derrick" anytime they wanted.[14]

Oil well shooting began as a rudimentary form of enhanced oil recovery in 1864 when Civil War veteran Colonel E.A.L. Roberts exploded an iron tube (called a torpedo) filled with gunpowder and ignited by a weight dropped by a suspension wire onto percussion caps. In the oil fields of Pennsylvania, the resulting explosion usually improved the flow of oil from paraffin-clogged wells. By 1867, Roberts obtained exclusive rights from Alfred Nobel to replace gunpowder with nitroglycerine, a notoriously sensitive and violent substance, as the explosive of choice. Thirteen times more destructive than gunpowder and capable of blasting twenty-five times quicker, it proved an effective, if dangerous and inexact, method of enhanced oil recovery. No formal training existed for well shooting—it was an art rather than a science, requiring a great deal of courage (or maybe just a smidgen of insanity) to become a

"nitro shooter" because the price of making a mistake with this volatile substance was often fatal. Because of the inexact nature of shooting, there was also the risk that the explosion might accidentally close off the formation, transforming a producing well into a duster. Nevertheless, the popularity of oil well shooting persisted mostly because of its ability to revive production from declining wells in limestone and sandstone formations.[15]

Given that Dunn ordered drilling stop on the well because it was supposedly on the verge of becoming uncontrollable until special equipment arrived, why would it be necessary to shoot the well with nitroglycerine? The Monarch well was not clogged with paraffin or asphaltene deposits. Dunn's suggestion to shoot the well is therefore either incredibly premature, ill-informed and reckless, or coldly calculated—an all-or-nothing shot, as it were, that would either produced a duster or a gusher.

With the transfer books closed for another thirty hours, later allegations suggested some directors used that time and insider knowledge to buy additional stock from shareholders who were unaware of the discovery. Several small containers with samples arrived in Monarch's offices in Calgary. One Monarch director, O.S. Chapin, later claimed he examined the samples in the afternoon of June 17, 1914, and began phoning Monarch shareholders urging them not to sell their stock and encouraging them to exercise their options to buy additional ones. Meanwhile, another strange event occurred when George Morfitt arranged to transfer, rather than sell, Monarch stock to the drillers.[16] Later, allegations emerged that some of Monarch's directors used their knowledge of an impending announcement to buy additional stock from other shareholders who were unaware of the supposed strike.

With the transfer books scheduled to open in less than twelve hours, the company issued a brief announcement to the press confirming the strike on the night of June 17. Cheely ran the full story on the morning of June 18, 1914, under the banner headline CRUDE OIL IS FOUND AT LAST**,** which came complete with self-congratulatory statements from a number of Monarch directors.[17] Georgeson underscored the significance of the strike for the province. "Our company is a modest concern and I do not care to say too much about our good luck, further than that a discovery has been made which is of vast importance to the petroleum industry of Alberta." Director O.S. Chapin echoed Georgeson's claim about the significance, arguing that the combination of the Dingman well's production of high-grade gasoline and black oil in the Monarch well to the north of Calgary all but proved "that this is the largest oil field in the world." Analysis of oil samples taken from the Monarch well, according to Chapin, revealed "a crude oil absolutely different from anything

Figure 11-1 "Charles Stalnaker pouring nitroglycerine down torpedo tube inside oil rig, possibly Montana, United States"

Shooting an oil well with nitroglycerine to fracture formations was a standard practice in the petroleum industry back to the nineteenth century. Charles Stalnaker (above) made a career out of shooting oil wells in Alberta and Saskatchewan, based from his home in Shelby, Montana. Unlike most of his contemporaries working with explosives in the oil patch, he lived into old age. (Glenbow Archive CU12117942)

that has been found so far in the oil fields of Alberta."[18] Furthermore, the paper claimed the field "has already been covered pretty well by some of the foremost geologists and oil experts in the world and they are practically unanimous in their opinion." Even the normally staid *Toronto Globe* reported that the Monarch discovery "is more convincing than even the remarkably fine product of the Dingman well." Meanwhile, in Spokane, the Monarch strike made the front page of the *Chronicle,* in part because Spokane investors held several thousand shares in Monarch but also because the paper speculated that "the entire Calgary region is underlaid with oil producing strata."[19]

That afternoon's edition of the *News Telegram* quoted Georgeson boldly claiming that the Monarch well had struck black oil. For good measure, an unattributed photo titled "A gusher caught in the act" accompanied the

headline and story. Few who saw the front page could be blamed for believing the photograph was of the Monarch.[20]

In the aftermath of the announced discovery, share prices reached forty to fifty dollars a share among curb traders. The *Albertan* reported one financier presented his brokers with $20,000 in one hundred dollar bills to buy Monarch stock but could not find any available.[21] Some Monarch shareholders, like Calgary lawyer McKinley Cameron, decided to cash out at least some of their holdings. Not all trading took place in bucket shops or the exchanges. On June 22, Cameron arranged a private sale of ten shares for $500—a return of 49,900 percent in four days. By the terms of the sale, Cameron allowed the buyer to cancel their offer until June 27 without penalty. Thereafter the buyer had thirty days to meet the terms.[22]

Among those caught up in the buying frenzy was Monarch's fiscal agent, James Francis Melville "Frank" Moodie. Born in Chesterville, Ontario, in 1878, James F. Moodie came to Calgary in 1901 after graduating with a degree from the Massachusetts Institute of Technology, launching a jewellery/watch repair business. When that business stalled, he and his older brother, Kenneth Moodie, turned to ranching and, eventually, mining. As an avid outdoorsman, tramping through the backcountry of British Columbia and Alberta, Moodie became, by all accounts, a very good amateur geologist, with his insights leading to the discovery of a major coal deposit near Drumheller in 1911. As discoverer, developer, and part owner of the Rosedale Coal and Clay Products' mine (with the Canadian Northern Railway and William Georgeson as partners), Moody emerged as one of Calgary's leading capitalists and entrepreneurs. Indeed, Moodie, like so many others during the boom, had several overlapping business concerns with regular partners, few more important in the summer of 1914 than William Georgeson. Georgeson played an important role in the success of Rosedale Coal and Clay Products and Moodie, arranging for sales of coal through his retail businesses while Moodie reciprocated by serving as fiscal agent for Monarch Oil stocks.[23]

Moodie and Georgeson met regarding a different matter on June 18, but It did not take long before their conversation turned to Monarch's oil strike. Moodie asked to see a sample of Monarch's oil. Georgeson readily agreed to supply one, and the two men found themselves in front of George Morfitt at Monarch's offices, where the latter kept the samples under lock and key. Told by Georgeson that Moodie wanted to examine an oil sample, Morfitt reacted defensively, refusing at first, and vigorously objected to the request. The company, he claimed, did not have enough samples to give away to everyone who asked, even if Moodie was a director. Georgeson waved away Morfitt's

objections, saying, "We can let Frank have a sample." Three small oval-shaped bottles containing samples sat in the office, so Moodie helped himself to one and brought it back to his office, where it sat in his desk, unexamined, for about a year.[24]

In the meantime, the noise and fury around Monarch continued. Cheely attempted to add Dunn to the Alberta oil patch's growing pantheon of heroes, hailing Dunn as the "petroleum genius who created a new oil district in the north." After inspecting an oil sample from the well, Dunn told Cheely, "If this well is not a producer, a flowing well, with a little more development, either by drilling or by shooting the well, there is nothing in geological indications by which men experienced in such matters judge these things." The geologist reiterated his belief that the Monarch field around Olds contained three pay zones before emphasizing his main point: Alberta had crude oil. "This will have a greater effect on outside capital than anything else that could occur. It means that oil men all over the world will have sufficient confidence in the future of the petroleum industry of Alberta to put their millions into it for the necessary development. It has demonstrated beyond the slightest doubt that there exists in this section a definite, well-defined zone of crude petroleum." To the *News Telegram*, Dunn estimated the Olds district field at ten miles long and four miles wide and believed Monarch could "drill at least twelve wells" on the level ground around the Monarch well.[25]

The company adopted strict measures to limit access of the press and public to the well site, posting a sentry to protect the property. In fact, the *News Telegram* maintained no one could be within 100 yards of the well; Dunn informed the press that these orders would remain until the company could "show the public the oil flowing out of the well in commercial quantities." Drilling at Monarch resumed on June 23, 1914, with the company president, Georgeson, one of the directors, and Treasurer George Morfitt at the camp outside of Olds. "The road from Olds to the camp consists of alternate stretches of corduroy and muskeg," noted the *Albertan,* "and it is a journey that is many degrees short of a joy ride." Yet the VIP's made the trip, at least in part because of the belief that "the next few days will be productive of most important disclosures."[26] The *Albertan* published an unverified report on June 24, 1914, that the Monarch well had struck a flow of oil at a rate of 300–500 barrels per day. Although he made no secret of his continuing attempts to urge Georgeson and the directors to shoot the well with nitroglycerine, Dunn confidently predicted to reporters that he expected "a strike at any moment." The bit made rapid progress, drilling 470 feet in less than a week, passing both

the 1,000- and 1,200-foot markers without so much as a trickle of oil, let alone a gusher.[27]

As more time passed and the depth of the well plunged deeper without a crude strike, the bloom came off Monarch and Dunn's golden reputation. The bit having passed Dunn's two predicted depths (1,000 and 1,200 feet) without encountering oil in paying quantities raised suspicions about the legitimacy of the Monarch strike, and by early July share prices softened substantially, tumbling from twenty dollars on July 1 to six dollars by July 10. This, in turn, forced Dunn into a defensive crouch. "Every time the bailer goes past the zone where we struck oil the first time," Dunn reminded reporters, "it comes up with its sides dripping with oil." At a board of directors meeting on July 3, Dunn recommended that the directors return to 800 feet and shoot the well with nitroglycerine.[28] However, the same risk remained. While it might transform the well into a gusher by fracturing the formation and liberating more oil, it might just as easily seal up the seepage and turn the well into a duster. "From the best advice that we are able to obtain," commented *The Natural Gas and Oil Record*, "the shooting proposition was a bad one."[29]

Supposedly, Georgeson and the directors overruled Dunn and insisted that drilling continue to 1,500 feet. After all, the contract with the driller obliged them to pay for a hole 1,500 feet deep anyway. If the worst came to pass, they could always backtrack and follow Dunn's suggestion to "shoot" the well at 808 feet if need be. As the well hit 1,470 feet, Dunn reported encountering a sandstone formation. "With the present conditions as developed in the hole," wrote Dunn in a supposedly secret report to Georgeson that almost immediately leaked to the *Herald*, "I am most certain that we have a producing well either by shooting or by drilling."[30]

However, at the same time, Monarch's board of directors approved a second recapitalization plan for the company. If it was approved by most existing shareholders, the company would reissue stock at a ratio of twenty-four to one—twenty-four shares in the new company for every share in the old company. The sale of existing holdings—approximately one-third, 200,000 acres of Monarch's leaseholds—would finance the capitalization. *The Toronto Daily Star* reported that shareholders pushed the board of directors to increase the company's capitalization from $200,000 to $5 million because of complaints that the high price of Monarch shares precluded speculation by the average investor. Small buyers, insisted shareholders, should have a chance to deal in the stock. Cumulatively, the board claimed the moves projected confidence that oil in the Olds district existed in commercial quantities.[31]

However, *The Natural Gas and Oil Record* considered Monarch's recent statements and actions puzzling. Why had directors approved plans to keep drilling when Dunn claimed the well could bring in crude oil "any time" by shooting it with nitroglycerine? Furthermore, why did directors approve a second plan to recapitalize so soon after the first? "We cannot quite understand this move," concluded the *Record,* "because the insiders held most of the stock and if they had a big thing it would make no difference to them what the capital stock was." Monarch could make money one of two ways—"by having big oil deposits" or by selling $5 million worth of shares. The *Record* stopped just short of accusing Monarch's directors of manipulating the market but made their doubts about the veracity of Dunn's statements plain. "Mr. Dunn does not claim to be a geologist, but he does claim to be an engineer. We understand that his work around Calgary heretofore was a position as checker in the Riverside Lumber Yards."[32] As the *Record* reported on the front page of its next issue, the remarks brought a terse response from Monarch's solicitor objecting to the tone and none-too-subtle direction of the article. However, J. Tucker, the editor of the *Record,* feigned surprise. "We cannot imagine just how he arrives at these conclusions unless it enters his mind that Monarch officials would do all that he states we intimate they might do." Tucker then took the offensive, asking the solicitor about his client's own statements on June 17 about an oil strike. "The best advice that he can give his clients is for them to show a few spoonfuls of oil."[33]

Just as suddenly as the second plan to recapitalize the company appeared, the directors shelved it in the aftermath of the attention drawn to it by *The Natural Gas and Oil Record*.[34] To be sure, the market shifted and Monarch's stock price already sat well below the fifty dollar a share level reported as the justification for the recapitalization effort in the *Star's* story. Perhaps more alarmingly, evidence abounded that no one wanted to buy Monarch. Just sixteen days after arranging a private sale for $500 for ten shares, McKinley Cameron wrote the buyer of his shares and offered to cancel the deal. When the sale closed, the well was at 800 feet and Georgeson and Dunn confidently predicted an oil strike by 1,200 feet at the latest. But on July 13, the well reached 1,510 feet with no sign of oil. "I think it would be extremely foolish for you to pay the five hundred dollars for these shares when they are selling on the open market at ten dollars per share," wrote Cameron, "and it is quite possible they may go down still lower."[35]

By the end of July, International Supply Company drillers continued to push the Monarch well deeper. On August 1, 1914, Georgeson provided a terse reply to a reporter's question about conditions at the well upon his

return from Olds. All signs seemed favourable, maintained Georgeson. The drill reached 2,250 feet and continued to make satisfactory progress. The flow of wet gas remained strong but, apart from small seepages, the well remained "all prospects, no oil."[36] By the time of the annual shareholders meeting on September 3, 1914, Monarch had the deepest well in Alberta at 3,147 feet, a heavy flow of wet gas, but still no commercial supply of oil. To the shareholders, Dunn reported that the petroleum shows grew stronger as the well drilled further down. Indeed, the strongest show of petroleum occurred between 1,775 and 1,832 feet, and Dunn again urged the company to "shoot" the well. "It is my opinion that if any of these three zones be 'shot,' oil in commercial quantities—from one hundred barrels per day and up—can be obtained."[37] Despite continued drilling, however, much like Calgary Petroleum Products #1, the Monarch produced wet gas and condensates but scant traces of oil. Soon the company began falling into arrears with its creditors as well as the drillers, but Georgeson insisted that the well keep drilling as stock prices continued to fall well below fifty cents per share. Monarch Oil eventually declared bankruptcy in 1916.

As the province ramped up its investigations into the oil companies in anticipation of the appointment of the Carpenter Commission in the summer of 1915, Monarch was a conspicuous target because of the spike in share prices and the fact that subsequent events did not corroborate the seemingly definitive reports of an earlier oil strike in the *Albertan* on June 23, 1914. As provincial investigators gathered information about Monarch, rumours spread that a detective investigating the company's activities learned that James F. Moodie suspected that something underhanded had taken place at Monarch. It fell to provincial attorney Gregory Trainor to follow up with an interview of James Moodie in June 1915 about events of the previous year. During the interview, Moodie allegedly said, "William Georgeson, president of the Monarch Oil Company, limited, gave me what he represented to be a sample of oil taken from the well. I had this sample analyzed and I was told by the analyst that the sample was 'faked.'"[38]

Moodie later claimed he only entertained doubts regarding the authenticity of the sample once—in April 1915, when he saw a second sample from the well, long after more drilling had pushed the well "quite a little further" down. To quell his suspicions, Moodie took the sample to Calgary chemist Edward G. Voss for analysis. Voss reported back to Moodie that the sample consisted mostly of mud and water with a strong smell and was "not a natural product" but rather more closely resembled refined crude. Based on that report, Moodie later told prosecutors he believed that the "mixture had been

prepared, faked." In the meantime, however, Moodie remained uncertain about how to proceed. Moodie sat on Voss's report and claimed he did not tell anyone, least of all William Georgeson, of the results until his interview with Trainor.[39]

Thus, largely because of Moodie's statement, Monarch became one of the initial eight companies targeted by the Carpenter Commission for further investigation. But company officials did not appear before Judge Carpenter prior to the injunction shutting the commission down. Even as commission staff wound up their inquiries, they clearly expected that another commission would soon resume their efforts. Indeed, even before the injunction became permanent, attorney Frank Ford wrote one investor that "the inquiry cannot go on until after the next session of the legislature when it is probable an amendment will be passed to permit a further commission being issued."[40]

If the courts expected average Albertans to be pleased with their ruling in favour of individual rights, they were sadly mistaken. As the provincial legislature prepared for a new session in March 1916, the *News Telegram* reported rumours that the oil investigations would continue once legislative reforms passed. But the editorial went a step further to argue for a more proactive stance by government—essentially arguing in favour of even more power to the government to dissuade wrongdoers. "It was a favorite saying of Robert Ingersoll that everything in this world has progressed but the law. Truly, that is the case if one were to judge by the laws affecting corporations and their almost all-powerful directorates, who often 'skin' the widow and the orphan of their hard-earned savings. Why not have laws to prohibit as well as laws to punish?"[41] Meanwhile, J.M. Murdoch of Stettler, Alberta, wrote to the attorney general's office about the status of the investigation. "A movement was on foot about a year ago to prosecute the directors of this Company and that is the last I have heard or can hear of the matter. Most of the funds have been fooled away by Criminal mismanagement. What is your department doing in the matter?"[42]

As public questions mounted about the state of investigations in late March 1916, Deputy Attorney General Arthur G. Browning wrote Frank Ford asking about the status of the province's oil inquiry. Ford explained that the appellate court ruling "held that there was no authority under the statute as it stands" for the commissioner to exercise the powers granted by the orders-in-council, resulting in the injunction becoming permanent. Ford then relayed that in his conversations with Attorney General Charles Cross, "instructions have been given to make provision by an amendment either to the Companies Ordinance or in some other way to permit a commission" with

the same terms issued to Judge Carpenter. "I have reason to believe," reported Ford, "that Mr. Fenwick has the matter in hand now." Ford therefore advised Browning that if he felt "certain that the amendment will be introduced and passed and that a new commission will subsequently issue, I would suggest that you write your correspondents telling them of the position of the matter." Ford then alluded to the importance of the province resuming the commission as soon as possible. This would be the only explanation most investors would ever receive of what happened to their money, and the only time most promoters would have to account for their actions. Certainly, individual investors could launch civil actions to recover their investment, but as Ford pointed out, "very few" oil companies still existed let alone had "anything to make it worth while bringing actions against."[43]

Rather than the Companies Ordinance, the necessary changes were incorporated into the Public Inquiries Act. The Appellate Division's ruling in *Black Diamond v. Carpenter* declared that the commission had exceeded the limits of the legislation by designating Black Diamond's private concerns a public matter. Amendments to the Public Inquiries Act conferred on the Lieutenant-Governor the power to appoint an inquiry "when ever he deems it expedient and in the public interest." Inquiries could "be made into and concerning any matter within the jurisdiction of the Legislative Assembly either connected with the good government of the province or the conduct of the public business thereof, *or which he shall by his commission declare to be a matter of public concern*," and to "appoint a commissioner or commissioners to make such inquiry and to report thereon."[44]

On June 8, 1916, the *Herald* broke the news that the government would resume investigating the oil companies. "At the last session of the legislature the provincial statutes were so amended that the powers of the commission were broadened sufficiently and now investigation can proceed more satisfactorily to the government."[45] Finally, on July 15, 1916, the Lieutenant-Governor approved the orders-in-council appointing Judge Lees commissioner of a new inquiry "into and concerning the promotion, incorporation, management and operation of the various companies incorporated under the authority of the Companies Ordinance." Similar to the Carpenter Commission, the orders-in-council declared the issue "*a matter of public concern*" and claimed powers authorized under Chapter 2 of the Statutes of Alberta (1908) granting the commissioner "the power of summoning witnesses before him and or requiring such witnesses to give evidence on oath, orally or in writing . . . and to produce such documents and things as the said William A.D. Lees may deem requisite to the full investigation." Lees also had the power "to enforce

the attendance of witnesses, and to compel them to give evidence, as is vested in any court of record in civil cases."[46]

However, the prospect of another investigation did not fire Albertans' imaginations the way it used to. "Interest in the majority of these companies has considerably subsided," wrote the *News Telegram*. It is doubtful if there will now be developments of a very sensational nature."[47] On August 4, 1916, Trainor announced to the *Herald* that Judge Lees would oversee investigations of perhaps as many as a half dozen companies, vastly different from the Carpenter Commission's more ambitious agenda. The paper noted that the attorney general encountered "considerable difficulty" in gathering evidence because so many witnesses had left the province, either as part of the armed forces (as in the case of Monarch's George W. Morfitt, now serving overseas as Lieutenant-Colonel George Morfitt of the 137th Calgary Infantry Battalion), or simply moving on to other professions.[48]

In the meantime, the Sifton government moved to formalize and institutionalize its oversight role by creating a permanent home in the bureaucracy, completing the task begun with the creation of the Public Utilities Commission a year earlier by promulgating the first "blue sky" law, or transparency laws, for the province. Proposed by former Attorney General and current Provincial Treasurer C.R. Mitchell, the "Act to Regulate the Sale of Shares, Bonds and Other Securities of Companies," better known as the Sale of Shares Act, established the right of the government to regulate securities transactions and protect consumers. The Act drew its inspiration from "blue-sky" laws first established in Kansas in 1911 that targeted so-called "blue-sky merchants" who sold securities backed by nothing more than the "blue skies of Kansas." Similar legislation migrated north to Manitoba in 1912 and Saskatchewan in 1914. Alberta's bill simultaneously addressed several issues identified by the Carpenter inquiry and various court cases filed in connection to the 1914 boom, such as the responsibility of advertisers and the press to ensure accurate information, the licensing of stockbrokers, consumer protection, and reserving a regulatory role for the state.[49]

The Sale of Shares Act explicitly carved out a new bailiwick for the Public Utilities Board by extending its mandate to oversee the sale of municipal bonds to include "a mandate to detect and prevent stock market abuses" by vetting the sale of all stocks, shares, bonds, and securities within the province and carefully regulating who could sell what to whom and when.[50] Henceforth, individuals could not act as sales agents on their own behalf or that of a company. To eliminate the unregulated curb or bucket brokers believed responsible for much of the rampant speculation in 1914, the Act

dictated that only licensed brokers could sell shares, stocks, bonds, or other securities directly or indirectly. Furthermore, the express permission of the Board of Public Utility Commissioners was necessary before businesses could sell securities. The Act also made it illegal for newspapers or publishers to print any advertisement for the sale of securities without first obtaining proof that the company had received authorization for sales from the Public Utility Commission. Legislation also compelled all companies selling securities to file copies of all contracts, bonds, or securities and to file a statement showing the name and location of the company, and an itemized accounting of the company's financial condition, including its properties and liabilities as well as "other information touching its affairs as the Board of Public Utility Commissioners may require." If the company did not incorporate in the province or maintained its headquarters elsewhere, the board required companies to file copies of the laws of incorporation, its corporate charter, articles of incorporation, constitution, and current bylaws. Furthermore, the province insisted that the filing include the company's written consent "irrevocable, that [legal] actions may be commenced against it" in provincial court.[51]

The Sale of Shares Act passed with barely a second glance by most Alberta newspapers despite the low-standing reputation of Alberta's oil industry in the spring of 1916. In Butte, Montana, just to the south of Alberta, a grand jury investigation of that state's "blue sky" laws declared them defective because they did not seem to discourage "sidewalk operators" from Calgary. The final report of the investigation contained several unflattering references to Alberta oil companies. "Much of the worthless stuff peddled around the county consists of Canadian oil and coal land stocks and bonds. Canada apparently has no blue-sky law, and during the past few years has turned out a tremendous amount of fake stocks and bonds."[52]

While it was one thing for a Montana grand jury to remain ill-informed about the state of Alberta's regulator legislation, it is stunning to note that the pro-Liberal *Albertan* seemed oblivious to its passage as well. Months after the Sale of Shares Act passed, the *Albertan* published an editorial on August 25, 1916, complaining that the "resources of the province are lying dormant because of lack of capital. Wildcat enterprises vigorously but improperly exploited, have made capital suspicious." Thus, the paper proposed that the provincial government should "investigate and report on any propositions for development that may be offered." Government's findings would carry "more weight with the public, with the big money, or with any other organization than the finding of a private company." The *Albertan* acknowledged that this was far more progressive and/or intrusive than anything the paper

had advocated before, "but conditions are changed now, and many a program which was regarded as red radicalism a few months ago must be regarded as sane and reasonable at the present time."[53] One letter to the editor of the *Herald* pointed out that the rival paper's proposals were completely in line with the Sale of Shares Act passed by the legislature during the previous session but noted that its oversight by the morning paper "is not at all surprising, for the matter has not received the publicity that it deserved."[54]

If the *Albertan* did not register the effects of the Sale of Shares Act, the Public Utilities Commission immediately noticed the changes wrought on its workload. "This Act renders it necessary for all companies selling, or offering for sale, their shares within the province, to obtain the permission of the Board before so doing," noted the board's first annual report in 1916. The board also embraced educating both the public and private sectors about best practices as part of its official functions. While the board believed the Sale of Shares Act did not authorize "giving publicity" to companies denied certification, they published eight failed applications from a variety of industries—three in mining, two in finance, and one each in ranching, real estate, and manufacturing—illustrating the reasons for rejection.[55] The annual report filed by the agency after 1916 observed that "administration of the Sale of Shares Act has increasingly occupied the attention of the Board." During its first full year of enforcement, the Public Utilities Commission estimated the Act prevented the sale of $3.5 million worth of questionable securities to the public, either because the commission denied companies a certificate or because the board specified the terms promoters failed to meet. With some self-satisfaction, the board concluded its actions "prevented the offer to the public of much stock in companies, doomed from the very outset to failure, there can be no doubt."[56]

Building on the successful passage of legislation formalizing an oversight role, the start of hearings before the Lees Commission seemingly affirmed the government's regulatory prerogatives. Although a couple of other companies received scrutiny from investigators in public hearings, the Monarch hearings were arguably the most important and consequential because of the level of detail extracted by the commission, and especially because of Georgeson's subsequent challenge to the legal basis of the commission. At bottom, Lees Commission investigators believed a plot at Monarch Oils unfolded differently from Buck's Black Diamond scheme though both sought the same outcome—to defraud investors and driving up share prices after false claims of an oil strike. Whereas testimony before the Carpenter Commission produced a smoking gun, with Fletcher's testimony directly implicating Buck in the plot

to salt the well, the Lees Commission's working hypothesis—that Monarch's board of directors knowingly issued false statements on June 18, 1914, to drive up share prices—remained, at best, ambiguous and unproven.

Monarch's time before the Lees Commission began on the morning of August 22, 1916, and featured testimony by company president William Georgeson and Director O.S. Chapin. Both men denied that the directors launched an organized attempt to boost stock prices with a false report of an oil strike. Georgeson stated he genuinely believed the well had struck oil and maintained "every confidence in the ability and integrity of geologist Dunn." Georgeson explained that Dunn's statements to him served as the basis of his statements to the press. Under questioning by his own solicitor, H.E. Forrester, Georgeson emphatically stated that he did not sell any of his shares between June 18 and June 20, 1914, and that "I made the statements on the information of Geologist Dunn, and protected myself by quoting him." After all, Dunn's predictions about the formation beneath the Monarch well proved uncannily accurate; so too did his predictions to Georgeson about the Dingman and McDougall-Segur wells.[57]

The next witness, stockbroker John Ballintyne, testified that he broke larger blocks of Monarch shares into smaller increments following the supposed strike. This enabled him to sell the shares under his name rather than that of the original stockholder. Ballintyne denied selling any stock for Monarch's directors when questioned directly but revealed under cross-examination that George Morfitt transferred some shares to the drillers at their request. Although newspapers refrained from speculating on the reasons for the transfer, considering the suspicion that the well was salted, transferring shares to people who knew what was going on at the well appears less benign and more like an attempt to contain a potential problem. The biggest sparks of the day came when O.S. Chapin took the stand and revealed he did not trust geologist Dunn after visiting the well in the spring of 1915. "We were reading accounts in the paper of big strikes in gas then," recalled Chapin. Prodded further by Trainor, Chapin said there were signs of both oil and gas at the well. Trainor then segued to the status of Chapin's holdings of Monarch stock. As one of the original backers of Monarch, Chapin received 500 shares from the company for his efforts to secure financing, as well as a seat on the board of directors. Then the probe turned to Cheely's article in the *Albertan* on June 18, which quoted Chapin as declaring Alberta's oil field the biggest in the world. Chapin denied speaking to the paper but added he believed the statement nonetheless. Regardless, Chapin then argued that Cheely made the statements up himself and was too hurried to wait to speak to Georgeson. The

answer did not satisfy George Trainor, who then asked why Chapin did not contradict them if they were false. "I did not think it worth while," responded Chapin, prompting Judge Lees to restate the question, eliciting the same answer from the witness. Prosecutor Frank Ford pointed out that Chapin also gave interviews to the afternoon papers on the 18th and confirmed the oil strike for them. "I don't remember," said Chapin. "I was called up three or four times a day by the papers at that time and cannot remember what I said to all of them." Essentially, Chapin argued he might have spoken to some papers, or he might not have. Regardless, his name kept appearing in the paper for the next week attributing some remark or another to him even though he gave no further interviews. While Chapin stood his ground in asserting that he did not recall making any specific statements to the press, he did admit to doubling his holdings to 1,000 shares and recalled seeing an oil sample in Morfitt's office on June 17, 1914. Trainor then asked if there was an effort to boost Monarch stock prices by the directors making "fake purchases." Chapin's response—"not to my knowledge"—seemed evasive.[58]

To a large degree, Georgeson and Chapin succeeded in stonewalling the inquiry and shifting blame for the false reports onto William Cheely, whom they rationally calculated would not appear before the commission. Not all directors, however, were willing to cover things up. George P. Adams's testimony raised doubts about the reliability of Dunn and Morfitt. Adams described visiting the well as early press reports indicated a heavy flow of gas had appeared at the well. Once there, Adams testified, he saw no evidence of a gas strike and said so to George Morfitt. Morfitt allegedly told Adams to stay quiet and say nothing about it.[59] Summarizing the first day of testimony, the *Vancouver Daily World* declared "a state of affairs nothing short of rotten has been shown to exist" in the affairs of Monarch Oil. "The directors and president of the Monarch Oil Company . . . allowed a report to be published in the press which they deny being responsible for but did not take the trouble to have the correction issued."[60]

The commission recalled both Georgeson and Chapin on August 23, 1916, to clarify and expand on their previous testimony. Frank Ford challenged Georgeson's assertions that responsibility for false reports lay with the *Albertan*. If he knew the statements about an oil strike were false, why did he allow them to stand? "I was not paying much attention to the paper then," replied Georgeson. Besides which, Georgeson claimed, the newspapers "were boosting things to make money for themselves." Presumably, he meant that the newspapers' sensational approach to the oil boom drove circulation numbers, but perhaps he was referring to Cheely's sudden financial windfall because of

his investments. Georgeson then denied meeting William Cheely or giving an interview at all on the night of June 17, 1914, challenging the authenticity of Cheely's extensive article published on the morning of June 18, 1914. The Monarch president claimed he was at the well site and unavailable to the press for comment, apart from the statement issued to the press by Morfitt over his signature. Ford was unconvinced by the explanation. Surely Georgeson could have corrected the paper upon his return to Calgary? Georgeson responded that "I did not think it necessary." Georgeson's solicitor, H.E. Forester, asked if Georgeson had any reason to believe that the oil strike did not occur. The Monarch president declared he did not; he had faith in Dunn's abilities. Follow-up questions concerning the statements issued in his name on June 18 elicited from Georgeson that they represented a good faith effort to keep the public informed, not to deceive investors. Judge Lees inquired about the transfer of stock to the drillers by George Morfitt. "Did I understand you to say that the drillers had asked Mr. Morfitt to purchase stock for them?" When Georgeson affirmed they had, Lees wondered if Morfitt had "any obligation" to the drillers, at least hinting that they might have been paid to stay silent. Georgeson replied Morfitt did not, explaining that the drillers "were enthusiastic about prospects, and were not able to get in from the well to buy it." Besides which, answered Georgeson, International Supply Company provided the drillers, and that company was unaffiliated with Monarch Oil. When Chapin returned to the stand, his solicitor J.E.A. MacLeod returned to the alleged interview given by Chapin to Cheely. Chapin now remembered it would have been impossible for him to speak to Cheely because he had left Calgary for Columbus, Ohio, on or about June 18 and even saw a baseball game in Chicago. Frank Ford asked if Chapin saw Georgeson before departing, but Chapin could not recall any particular conversation with him, bringing that portion of the inquiry to an end for the day.[61]

Tangible differences already distinguished the Carpenter and Lees commissions, particularly with relation to the way witnesses behaved before the inquiry. For the Monarch case, the Lees Commission called witnesses, some of whom (like Chapin) arrived late, if at all. Oscar Chapin, wrote the *News Telegram,* "did not appear for a time," while four others called—Andrew Rutherford, Joseph Kerby, Archie Fowler, and B. Martin—failed to respond to the commission at all. Another witness and company director, R.L. Shimmin, claimed an illness prevented him from testifying and received a leave from the Judge to appear later, although the Lees Commission shut down before he could appear.[62]

If the responses of witnesses differed from those in the Carpenter Commission, the attitude of the *Albertan* remained consistent. Much as it had with the Carpenter Commission the year before, the *Albertan's* editorial page downplayed the significance of the testimony, again referring to collective responsibility for the intense emotions of the boom and absolving everyone else in the process. Now, with Cheely's journalistic integrity called into question by two separate witnesses, both of whom alleged that the former *Albertan* reporter had made up entire portions of his stories, it must have raised uncomfortable questions for the *Albertan's* publisher, William Davidson, as to whether the *Albertan* had become part of the story itself. These revelations must also have stirred some unease in the attorney-general's office, where Cheely loomed as a crucial witness in the department's case against George E. Buck. If Cheely "made up" quotations for his stories about Monarch Oil, did he do the same in his stories about Black Diamond? (See Chapter 12.) On the morning of August 24, the *Albertan* sniffed that "the stories told by witnesses at the oil probe investigation bring back memories of an intense, overheated mad month or more a couple of years ago, when one entire city and the people beyond lost their senses for the time being. They have had a long time to think it all over since then."[63] Meanwhile, the *Edmonton Bulletin* concluded that "the fundamental idea in this oil company probe is to find out why the stock market gushed so much more than the wells."[64]

After Georgeson and Chapin's testimony, the inquiry briefly turned to the affairs of Rocky Mountain Oil Fields before resuming the Monarch investigation with the testimony of James F. Moodie on August 24. Moodie was a reluctant witness. After receiving a letter from Gregory Trainor seeking information about his acquisition of the oil sample, Moodie appeared at Trainor's office on the afternoon of August 23. Trainor asked Moodie to testify about how he secured a sample of oil from the Monarch well, leading up to his decision to have the sample analyzed and the results of the chemical analysis that concluded it was not a "natural product." Moodie refused, claiming what happened at Monarch Oil had nothing to do with him. Part of Moodie's reluctance stemmed from the fact that he and Georgeson had since had a falling out. While he insisted there was no ill will between the two of them, Moodie said he would prefer to go his own separate way. Notwithstanding Moodie's reluctance, Trainor replied that if he did not testify willingly, the commission would issue a summons compelling his appearance.[65]

Moodie's testimony before the commission on August 24 began with Trainor walking Moodie through his association with Monarch Oil. Trainor asked if Moodie met with Georgeson in the spring of 1914 and obtained a

"bottle of oil" from the Monarch well. Moodie confirmed he had, explaining as well that the sample remained in his desk for "some time" before he took it to Edward Voss for analysis. According to Moodie, Voss's analysis concluded the sample was not crude oil at all; rather, it was refined product. Based on that information, Moodie stated the sample from the Monarch well was "faked."[66] Trainor inquired about subsequent samples brought back to Calgary from further down the hole. What opinion did Moodie have of these? "It was not a natural product in my opinion," stated Moodie. "I tried to get a sample and couldn't get it." Judge Lees evidently misheard Moodie's testimony and asked him to clarify where he obtained the second sample from and Moodie reiterated he did not secure a second sample, leading to the following exchange:

> A: I am satisfied in my own mind that the oil I saw the second time was not a natural proposition; I have Voss' analysis of this [first sample]; he had not much to work on as he says but I know of no reasons why that should be necessary.
>
> Q: Does Mr. Voss suggest in his report to you that that is a fake proposition?
>
> A: He made the statement to me verbally that it was.
>
> Q: He did?
>
> A: Yes. . . .
>
> Q: Have you any reason to believe yourself, with your own knowledge of oil, that that [second sample] was a fake mixture of oil?
>
> A: I have.[67]

During the cross-examination, Georgeson's lawyer, H.E. Forrester, zeroed in on Moodie's motives, claiming that the only reason Moodie raised the issue was to strike back at Georgeson for the failure of their business arrangement, producing what the *Albertan* called "a lively interchange of repartee." Moodie admitted that he bought some Monarch stock following the strike and Forrester suggested that he had been influenced to do so by the oil sample. "No, that was not the reason," Moodie snapped back. "I just bought the stock to call one of Georgeson's bluffs." Exactly what bluff Moodie called remained unexplained.[68] Forrester then changed tack and asked Moodie if he had any training as a geologist. Forrester's greater point was that Moodie lacked the

scientific background and training to determine on his own if the Monarch sample was crude oil or not. When Judge Lees suggested that Moodie could express his opinion about the depth of the Dakota sands at the Monarch well, Moodie replied somewhere between 4,000 and 5,000 feet. Forrester jumped up to his feet to challenge Moodie's assertion by pointing out he was not a geologist. Georgeson's solicitor then asked, "Would you know the Dakota sands if you saw them?" Moodie replied firmly, "Yes, I would," before taunting, "Bring them here and I will point them out to you."[69]

After Moodie's testimony, Chapin phoned his erstwhile partner and asked if he could come by for a chat. At the appointed hour, Moodie arrived at Chapin's office. Chapin wondered why Moodie had testified before the commission and Moodie replied that he had not wanted to, but Trainor's subpoena compelled him to do so. Chapin told Moodie that "he had been badly misled by men that he considered friends." While Chapin sold off most of his holdings in Monarch, he still held some shares. The conversation then turned to Georgeson, with Moodie telling Chapin he "thought the old man was unbalanced." Moodie's concern stemmed from a series of statements made by Georgeson on matters unrelated to Monarch Oil (the bankruptcy of Rosedale Coal and Clay as well as a pending lawsuit against Georgeson and Moodie).[70]

After granting a continuance to give Trainor time to find witnesses, the investigation resumed on August 29 with O.S. Chapin recalled a second time to clarify his earlier testimony. Previously, Chapin claimed Georgeson gave him approximately 1,500 shares of Monarch Oil for helping establish the company. After consulting his records, though, Chapin amended the total to 10,375 shares. He gave 900 shares to Devenish and others were "similarly disposed of." By the time Monarch ceased operations, his portfolio contained 1,325 shares. Following Chapin on the stand were a pair of witnesses—L.B. Martin and A.L. Smith—who worked for Chapin in various capacities and verified they received shares from Chapin in Monarch Oil. The highlight of the morning session came when chemist Edward G. Voss testified about the analysis performed on the oil sample provided by Moodie. The sample consisted "chiefly of mud and water with a strong smell." Voss determined that the small volume of oil in the sample caused the smell. When asked what he reported to Moodie, Voss stated that the sample did not contain natural petroleum, but he was not yet prepared to conclude what it did contain.[71]

Cross-examination of Voss by Georgeson's lawyer did not seek to discredit Voss, but rather raised questions about Moodie. "Mr. Moodie implied in no uncertain terms that you gave him a statement that the sample was a hatched-up mixture," began Forrester. "Did you make such a statement?"

Voss replied he had not. Voss also desperately sought to correct the impression left by Moodie that he had tested the sample "immediately after the strike," pointing out that his analysis took place in April 1916. Asked what the potential effects of waiting two years could have on an oil sample, Voss stated that it would result in the evaporation of the lighter fractions within the crude oil and give the sample the appearance of being a refined product. "Then in your opinion," asked Forrester, "it was not a fair test for the oil?" "No," replied Voss, "it was not a fair test." After hearing a few more witnesses who added little of substance to the issue, Judge Lees adjourned the commission until the following week as he had other business to attend to outside the city, but it was also clear that the inquiry's lack of witnesses also played a factor. Further conflicts in Judge Lees's schedule compelled postponement until September 19.[72]

The Monarch investigation had reached an unsatisfactory equilibrium. Unlike the Black Diamond case, where Buck openly plotted the deception of shareholders with his employees, the Monarch case remained ambiguous. Was the well salted or not? Even among those who suspected something untoward, there were too many suspects and unanswered questions to state definitively what took place. Some questioned the authenticity of Bill Cheely's story printed in the *Albertan* on the morning of June 18, 1914, announcing that Monarch had struck oil. Such was Cheely's reputation by then that others wondered if Cheely was in on the scam, or an unwilling dupe. Did B.W. Dunn salt the well? Was Georgeson in on the plot? If so, why did he allow Moodie to take a sample? Even better, why did Georgeson continue drilling until bankrupting the company? What should investigators make of the decision to transfer shares in the company to the drillers? Was this an attempt to buy their silence? Or was all this simply what happens when inexperienced people get together and form an oil company?

Before the investigation resumed, though, Trainor noted the uncomfortable reality that after a few weeks of hearings, the commission had already reached the end of its tether and run out of witnesses. In a memo to Ford, Trainor clearly felt hamstrung by public expectations that "three or four companies" needed investigation and highlighted the department's difficulty in securing witnesses to testify before the inquiry. Frank Ford agreed with Trainor regarding the difficulty of convincing witnesses but thought the inquiry had already succeeded at establishing the principle of oversight. Differing from Trainor on the issues of public expectations, Ford then suggested the indefinite postponement of the inquiry due to "the almost entire lack of interest which is being taken in the matter at the present time."[73]

If public interest waned, however, the oil companies took notice of provincial exertions. Some companies now proactively sought to make amends and comply with provincial legislation. In one case, the directors of Western Land appealed to Deputy Attorney General A.G. Browning to allow them to have charges against them for violating the Companies Ordinances dropped provided they took steps to rectify the situation. As Browning explained to the prosecutor of the case, "I do not think the application is likely to be granted," and reiterated that his office would not influence the decision one way or the other. Upon the resolution of the case, the defendant's lawyers suggested the directors were ignorant of the law but were, overall, "decent men although not very competent."[74]

Instead of the commission resuming on September 19, a brief announcement appeared in the *Albertan* stating that the oil inquiry would cease operating because of a lack of witnesses. As with the Carpenter Commission before it, the Lees Commission would not issue a formal report. The ambiguous ending of the inquiry prompted one letter writer to the *Herald* to wonder what the point of it all was. "It seems hardly worth while going to the trouble and expense of having this inquiry if it was simply to wash somebody's dirty linen in public and let the offenders off scot free."[75] Despite the criticisms, the Lees Commission succeeded in establishing the provincial government's right and responsibility to oversee and regulate the oil industry.

A year later in 1917, William Georgeson mounted a legal challenge to the provincial government's right to hold a public inquiry, albeit indirectly, via a slander suit pursued against James Moodie. The alleged slanderous statements occurred when Moodie answered questions put to him as a witness before the Lees Commission. Claiming no specific loss of income and unable to prove any diminution in his reputation, Georgeson sought $50,000 ($1.5 million, adjusted for inflation) for the damage inflicted to his "credit and reputation." The crux of Georgeson's lawsuit, filed by his attorney A. MacLeod Sinclair, however, was not the alleged slanderous statements as much as Sinclair's claim that the Lees Commission lacked the authority to summon witnesses and conduct the inquiry despite the amendment to the Public Inquiries Act. In this respect, Georgeson's attorney made two claims. First was that, as McGillivray argued in 1915, the Public Inquiries Act could not authorize an inquiry of the scope and scale of the Lees Commission, making it ultra vires (outside the law). Second, based on the precedent established in *Black Diamond v. Carpenter* (1915), the Public Inquiries Act "does not authorize the holding of the enquiry in question." Even if the plaintiff granted that the amendment passed by the legislature in April 1916 meant the inquiry was

intra vires (within the law), Sinclair's suit claimed "no commission was ever issued. There was no declaration that the matter was of 'public concern.'"[76]

After the initiation of legal action against Moodie, some mildly critical press coverage—reporters pointed out a connection between the publication of Georgeson's official statement on June 18, 1914, and the rise of Monarch share prices—revealed a surprisingly thin-skinned Georgeson, who believed such stories suggested some underhanded behaviour or nefarious motives. Speaking with the *Albertan* a couple of days later, Georgeson stated that he wished to emphasize that he issued his statement on June 18, 1914 "in the interests of the shareholders, and by the instructions of the board of directors, who acted on the report of our geologist, Mr. Dunn." Although Georgeson attempted to foist responsibility on others for the statement, he nonetheless also reiterated he had "every faith in the report." As proof, he pointed toward the large block of Monarch stock he purchased on the open market. The curious press conference concluded with Georgeson referring to the fact that all this had been "brought out at the government's investigation of oil companies" whose very provenance Georgeson questioned. Despite it all, Georgeson still believed in the promise of Alberta oil fields. "The majority of Albertans have forgotten the fact that Alberta wells, very few of them completed, showed the greatest oil seepage in the world, outside of fields producing gushers of crude oil."[77]

Moodie's defence claimed that the commission subpoenaed him to give evidence under oath to Judge Lees, duly appointed under the authority of the Public Inquiries Act and, as such, Moodie's testimony was privileged and not subject to sanction.[78] On September 11, 1917, before the master in chambers, Georgeson's legal team, headed by Sinclair, claimed the statute ultra vires—"beyond the law"—of the legislature to delegate to the commission and requested an immediate hearing before the Appellate Division in Edmonton.[79] If Georgeson's claim held, it meant that Moodie's testimony was not privileged speech, leaving him liable if the court found his statements slanderous.[80]

Citing the precedent established in *Black Diamond v. Carpenter* (1916), Sinclair called into question the wording of the orders-in-council and caused no end of consternation among Moodie's defence team, who immediately appealed to the attorney general's office for help on September 6, 1917. "We think there is some statute or rule under which the attorney general may intervene where a defence is set up that any statute of this province is *ultra vires,*" wrote Moodie's lawyer, James Muir, to the attorney general's department. "Would you let us know whether we are right in this and whether or not

the attorney general desires to intervene to support the statutes referred to." The deputy attorney general received a memo the same day arguing that no such statute or rule existed and further suggested that the department really had no interest in the case "unless the Court holds that the Statute referred to is *ultra vires*, in which case the question of a reference might be considered." The department's legal council revised its opinion slightly on September 8 by acknowledging that chapter 9 of the Statutes of 1908 enabled the Lieutenant-Governor in Council to provide a reference on "any constitutional or other legal question." Still, however, the department counsel insisted the attorney general's office had no interest in the case unless the court ruled the statute ultra vires. Browning delivered the news to Muir on September 8.[81]

Through it all, the attorney general's office publicly retained confidence in the amended terms to the Public Inquiries Act even as they warily fielded requests for assistance from Moodie's team. Arguably, the most serious part of Georgeson's lawsuit stemmed from Sinclair's claim that, even if the amended Public Inquiries Act was within the law, the Lieutenant-Governor had failed to issue a commission properly declaring the inquiry "a matter of public concern," thereby voiding Moodie's claim of privilege.[82] Muir worried that the attorney general's office had missed something and that his client would be left holding the bag. "The solicitor for the plaintiff objects that no order was made under this commission appointing Judge Lees commissioner," wrote the attorney. Reminding Browning that Moodie faced the prospect of paying $50,000 in damages in a case where the "principal charge is the evidence he gave before this commission," Muir again pleaded for greater assistance from the attorney general's office.[83]

Muir's correspondence betrayed the gnawing fear that the courts would uphold the precedent distinguishing personal rights from the public interest established by *Black Diamond v. Carpenter*. Part of the problem may have been a misunderstanding between Muir and the attorney general's office. Muir asked for, and received, a copy of the June 13, 1916, orders-in-council appointing the commission. In that document, the Executive Council advised Judge Lees to "declare the matter referred to him to be a matter of public concern."[84] The formal commission, signed by the Lieutenant-Governor on July 15, 1916, and printed in the *Alberta Gazette,* contained the formal statement "We Do Hereby Declare the matter above referred to Our said Commissioner to be a matter of public concern."[85]

It is unclear from the existing records why the attorney general's office did not point to the July 15 commission and seemed to rely exclusively on the orders-in-council. Regardless, Muir's growing agitation became apparent in

a second letter sent the very next day. While he agreed the orders-in-council expressly appointed Judge Lees and granted him the power to summon witnesses, compel testimony, and enforce its rulings, Muir also argued that "there are some other parts of the order which would appear to require a further order." Muir pointed specifically to the plaintiff's argument that an inquiry must declare the issue "a matter of public concern." Georgeson's lawyer claimed that this required "some further commission" to be valid. "The plaintiff seems determined to have the proceedings under the commission invalidated so that the defendant may not be able to succeed on his plea of privilege." Lingering in the air was Muir's implicit challenge: his client would endure the most pain of another misstep by the provincial attorney general's office. Was Browning prepared to do anything to prevent another humiliating setback for the provincial attorney general in court?[86]

Evidently, Muir's second letter struck a nerve, as Browning became sufficiently concerned that he asked E.R. Gording in the attorney general's legal department for its opinion on the plaintiff's interpretation of the statute. According to Gording's subsequent report to Browning, the biggest challenge Georgeson's lawyers might make was a semantic one. "The commission issued by the Lieutenant Governor in Council [on July 15] follows the wording of the recommendation without changing the verbs to the present tense," wrote Gording matter-of-factly. In any case, the point was rather moot: no subsequent commission was issued. The department could not change anything even if it wanted too. "If the commission, a copy of which was forwarded to Messrs. Muir & Co., is not valid nothing can now be done."[87]

When the hearing opened on November 21, 1917, James Muir based Moodie's defence around two main points: that Georgeson could not point to any tangible losses of money or status because of Moodie's statements, nor were the words capable of bearing the meaning alleged by Georgeson. "The only alleged ground on which, as the defendant submits, the words referred to are actionable," argued Muir, "is that the plaintiff was thereby charged with an indictable offence." Since Georgeson remained unindicted as of September 25, 1917, Georgeson had no case to pursue. As for Moodie's statements before the Lees Commission, Muir asserted that they were privileged under the auspices of chapter 3, section 24 of An Act respecting Inquiries Concerning Public Matters. "The presumption that the commissioner was duly appointed existed when the defendant gave the evidence in question and under that presumption . . . he was protected and the privilege remained." As for Georgeson's claim that the commission was ultra vires, Muir pointed to the orders-in-council and argued Moodie had no reason to suspect anything

untoward took place with Lees's appointment. Then Muir pointed out the obvious—if a witness refused to testify before an appointed commissioner and insisted on verifying the "proper appointment of the official . . . he would almost certainly run the serious risk of being committed for contempt."[88]

Georgeson's lawyer, A. MacLeod Sinclair, however, claimed "no commission was issued by the Lieutenant Governor," and Moodie's statements were actionable because they alleged Georgeson committed a crime while performing his duties as "a director of the Monarch Oil Company." Regarding Moodie's defence that the statements were privileged, Sinclair maintained that the statute did not authorize holding the inquiry, citing the precedent of *Black Diamond v. Carpenter* (1915). "Even if the amending Statute be *intra vires*," stated Sinclair, "the inquiry is not one which is authorized because no commission was ever issued. There was no declaration that the matter was of 'public concern.'"[89]

The Appellate Division's ruling came down on December 4. The seven-page unanimous opinion, written by Chief Justice Horace Harvey, identified two questions for the court to resolve. The first question related to the defendant's claim of privilege because the alleged slanderous statements "were made by the defendant when giving evidence before a commissioner appointed by the Lieutenant Governor in Council under Chapter 2 of 1908 and the question is whether that fact gives the defendant the protection that is afforded to a witness giving evidence in a Court of Justice." The plaintiff claimed that the privilege "does not extend to such an inquiry." The second issue related to the legality of the Lees Commission and whether the appointment of the commissioner was valid. Chief Justice Harvey found that the Act authorized any inquiry "made into and concerning any matter within the jurisdiction of the Legislative Assembly" and that the Lieutenant Governor could appoint a commissioner with the power of taking evidence under oath.

Chief Justice Harvey dealt first with the question of immunity. Harvey's opinion began by stating the legal grounds establishing the Lees Commission contained in the Public Inquires Act. Then he cited legal precedent that "no action will lie for defamatory statements" made during the course of a judicial proceeding and that everything said "by a Judge on the bench, a witness in the box, the parties, or their advocates in the conduct of a case, is absolutely privileged so long as it is in any way connected with the case." Such immunity rests on "obvious grounds of public policy and convenience." For Harvey, the critical distinction in this case was that the immunity granted to witnesses was "founded upon a rule of law declared by the Courts and is based upon grounds of public policy and convenience." The rule should be applied

to any witness appearing before a commissioner provided their evidence be relevant. Since there was no question about the relevance of Moodie's evidence, the real issue was the questions raised regarding the authority of the commission itself.[90]

Chief Justice Harvey referred to the provisions of the Public Inquiries Act requiring the appointment of a commission by the Lieutenant Governor in Council and the orders-in-council to be produced in order for the commission to be valid. The plaintiff claimed that a strict reading of the statute required an order in council authorizing the appointment followed by a commission by the Lieutenant Governor in Council. Harvey found that instead of this two-step process, the Lieutenant Governor had combined the two. The order-in-council made the appointment directly and therefore served as the commission as well. Did condensing the process in this way negate the legality of the commission and the defendant's claim to privilege? On this point of law, Harvey found it unreasonable to expect a layman, like Moodie, to determine if authorities had followed the proper procedure establishing the commission. Applying a firm dose of common sense, and citing the precedent established in *Dawkins v. Lord Rokeby* that stated "witnesses may feel free to give their testimony without fear of being harassed" after the fact by lawsuits, Harvey ruled that Moodie's statements before the Lees Commission were protected. "It appears to me that the principle upon which the rule is founded demands its extension to such a case as this even if the legal objections which are taken are sound as to which I have formed no opinion." With that, Harvey dismissed Georgeson's lawsuit with costs.[91]

In the aftermath, few noticed that Harvey had sidestepped the question as to whether the Lees Commission was ultra vires, but the point was moot considering that the commission had already terminated its proceedings and never filed an official report. Nevertheless, the attorney general's office scored a major victory with the Lees Commission. Less than a year after the appellate court ruling shut the Carpenter Commission down for exceeding the bounds of what the province could investigate, the resulting amendment to legislation dramatically expanded its powers. In the process, it resolved the dilemma raised by the Carpenter Commission of distinguishing between public and private concerns by effectively stating that investigating a private concern could become the subject worthy of an inquiry if declared to be in the public interest.

In a short amount of time, the Sifton government had come quite far from where it began in 1913–14 regarding its willingness to intervene in the lives of its citizens, especially upon consideration of its earlier inability to properly

execute oversight of the emerging petroleum industry. Having established a minimum standard of consumer protection, the question remained how far the government would move to safeguard the public interest. Even as the Lees Commission slipped quietly below the horizon in September 1916, another manifestation of the willingness to use expanded government power—the trial of George Buck—was prepared to begin.