

not think that the Government should have the advantage. It should take every means to protect itself, and leave the contractor as great freedom to protect himself.

If the mistakes of the engineer against the Government were offset by his mistakes against contractors, the losses of the Government, from this source, would be less than what they at first sight appear. He does make mistakes against the contractors and they seem to be invariably found out, but I don't know of an instance in which the Government has not in the end waived its right, in such a case, to make the contractor abide by the engineer's decision. Now, although I should be sorry to see a system prevail which would have the effect of causing the man who gives value to the government to be deprived of full pay for it, there seems no way of properly preventing such a result, while the Government, under the same regulation, is compelled to submit to over-payments.

I cannot understand what can be the meaning of the words of the Audit Act in section 32, subsection (c): "on the ground that the money is not justly due"—"or for any reason other than that there is no parliamentary authority"; and those in section 33: "unless in addition to any other voucher or certificate which is required in that behalf"; and those in section 48: "or was in any way irregular," unless the Auditor General, before he passes a certificate, can pertinently ask what does the Department of Justice think of the legal duty in connection with the work which was done by the engineer.

Is the money justly due, whether legally or not, when it is plain that the contractor gets more for the work than the amount for which he agreed to do it? If the paying to the contractors for the close-pile trenches of more than the amount for which they clearly agreed to make them, was a just payment as required by the Audit Act, the paying of only the amount for which they agreed to do the work would have been an unjust withholding of part of their money. The Audit Office, if this is the correct view, has been wrong for nearly twenty years; but perhaps the fact that we did it innocently will be considered an extenuating circumstance.

Suppose an English firm had large works to be constructed in Canada and sent four persons: a manager, a good lawyer, an experienced accountant and an engineer to look after their interests, would the firm be satisfied with the loss of money arising from the fact that the engineer was given the lawyer's work to do and that the lawyer was deprived by the manager of the right to interfere in legal questions?

*Lake St. John Railway Company's Case (page—lvii)*

The effect of the opinion of the late Minister of Justice in this case is, that the government, without having contracted for the service, may pay one man and refuse another under exactly similar circumstances.

See to what this leads. I need not repeat my part of the case in the papers on which I was overruled.

Imagine the pressure to which a government would be subjected shortly before a general election if it were known that the Government might grant to one and refuse to another under identical conditions, reimbursement for expenditure made solely for the advantage of the applicant, but from which the country as a whole incidentally obtained some benefit and this, when the government neither by giving instructions beforehand to go on with the work nor in any other way rendered the taxpayers of the country liable.

The applications for payments would be endless. Who could form any approximation to the liabilities of the country?

I need scarcely say that I do not insinuate that the Government in agreeing to make this payment saw that so bad a precedent was being established.

As, however, the precedent has been established. I hope that steps will be taken to prevent its being followed.

There seem to me to be strong arguments against the correctness of the opinions of the late Minister of Justice, but whether the opinions are sound or not is not so important as it appears to be. Although my experience in endeavouring to interpret the Audit