

Editorials

PRIVY COUNCIL AND THE HYDRO

The Electrical Development Co., owners of one of the three Canadian hydro-electric plants now developing power at Niagara Falls, last year asked the attorney-general of the province of Ontario for a fiat permitting them to sue for an injunction enjoining the Hydro-Electric Power Commission of Ontario, as a Crown body, from proceeding with the Chippewa-Queenston power development scheme, claiming that it has a contract with the province whereby the province agrees not to develop power at Niagara. The attorney-general refused the fiat upon the ground that the operations of the Hydro are matters for the legislature to decide and cannot be reviewed in the courts. The company then appealed successively to the Master-in-Chambers, to Justice Middleton and to the Court of Appeal, but they all refused the application for injunction unless the company could first secure the attorney-general's fiat. The company has now appealed to the Privy Council for permission to sue without the fiat and the Privy Council has given it special leave to present its arguments as to why such permission should be given.

It is quite possible that after presentation of these arguments, the Privy Council will refuse permission to the company to appeal without the fiat and if this is done the case will be ended. Should the Privy Council give permission to the company, the case will then be brought back to Canada and will be heard on its merits before a trial court, probably before one of the judges of the Supreme Court of Ontario. If this is done, it is certain that whichever side is unsuccessful before the Supreme Court will appeal to the Privy Council, and the latter body may then decide to hear the arguments on the merits of the case.

Meanwhile the Hydro work at Queenston will continue, and as it will probably be very many months before the company, even if successful, could obtain against the work an injunction that would have any force, the work would be very well advanced by the time such injunction might be granted by the Privy Council.

The Privy Council serves a useful function in keeping uniform the legislation of the Empire, and in correlating and stabilizing legal precedents throughout the Empire. In its purely legal function of determining the correct interpretation of contracts and statutes, it is par excellence the greatest tribunal of its kind in the world. But if by any judicial slip or technical flaw in any contract or statute, judgment should be given by the Privy Council such as would render invalid the efforts of the Ontario Hydro-Electric Power Commission to make the most economical and efficient use of Canada's water rights at Niagara, the popularity of the Privy Council in Canada would, to say the least, be very seriously impaired.

The provincial government of Ontario is supreme in Ontario in regard to provincial affairs, and even should the contingency arise of the Privy Council's stopping the Chippewa-Queenston development, there would no doubt be some way for the Ontario Legislature to pass such provincial laws as to nullify the effect of the Privy Council's decision. As a tribunal in disputes between municipal or provincial governments, or between provincial and Dominion governments, the Privy Council

serves a most useful function, and it would be a heavy blow to provincial rights if its functions in this regard were ever to be transferred to a politically appointed and government-dominated judiciary. But in regard to suits brought by private individuals or companies, the courts of Canada should be supreme in Canada, although it must be admitted that there should first be radical reform in the method of making judicial appointments.

THE CLAIM OF THE ENGINEER

In various fields and diverse ways it has been the privilege of the engineer to overcome the insurmountable and lay nature tributary to man, as has no other profession.

In manufacturing plant, mine, railway, dock, bridge, tunnel; on land, upon the sea, in the air, everywhere are triumphs of merit that cannot be contested.

Judging by results to date, it is safe to infer that, given a fair, unhampered field, there is nothing which, if resources are available, cannot be accomplished by the same type of mind.

Nothing of an engineering character is devoid of utility,—it either serves public need, public convenience, or effects enormous savings in the public pocket. It either effects economy in a direct sense, adds to the amenities of life, or renders the otherwise impossible or vain a commonplace thing.

One can pardon the attitude of the savage who worshipped a dynamo or offered oblation and sacrifice to a locomotive, for both are so far from any natural object, and their latent power so mysterious, that they are both worth reverence.

Past ages bear witness to large works of an engineering character; the difference in the modern sense is that such works must carry a profit upon outlay, they must pay dividends upon the capital employed. The engineer is the creator of modern wealth; the present viewpoint is not what is desirable, but what pays. If the work of the modern engineer did not give investment returns on outlay, in some form or another, there would be less of his handiwork visible. Seeing that engineering effort en masse is the largest industry extant when all its ramifications are duly considered, it makes clear to the meanest intelligence that of all men the engineer is an economist of front rank, if not the greatest of all. In reality, he is the economist of economists, and his training renders waste of any kind a thing to be avoided at all costs.

Every improvement he effects means greater economy of fuel, labor or time. He lives and moves and has his being by saving in the interests of the community as a whole. This claim cannot be made of any other industry. No other profession can show so enormous an achievement or look forward to the immediate future with so much confidence.

Besides the technical achievements made, there is the administrative side which co-ordinates large numbers of men into effective human machines. The engineer has tackled the problem of economy in a human sense no less than in the realm of material. To build and maintain a large organization of men, an economic human machine, running without waste of labor, smooth, efficient, is a