

the prosecution with not pushing the case ; I merely comment on the fact with which we must all be astonished. But this I say, that the case against the Minister has been enormously strengthened by the double fact, that the magistrate having heard the case argued at length, and not only listened to arguments but read factums, deliberately came to this conclusion that there was not even a prima facie case, although he was satisfied that the department and the country had been defrauded by this man St. Louis. And why ? I suppose because the money was paid to him, as I have pointed out, with knowledge on the part of the officers of the department of the suspicious circumstances ; because the money was paid to him deliberately. And not only did the magistrate stand justified in his own estimation and by his own reasoning, but the grand jury—and I suppose they were not affected with the same mania for listening to cases—were able to dispose of it in two days.

Sir CHARLES HIBBERT TUPPER. The witnesses would take two hours.

Mr. McCARTHY. The Minister probably thought that the grand jury would take six or seven months. The grand jury also decided that there was no ground for sending the man for trial. If the grand jury did not see a case made out for sending the man for trial if this money is gone, as it is, unless perchance it can be recovered by a civil suit now being brought—and certainly I should think that very doubtful if the Crown is not in a better position than a private individual would be when the money was duly paid with all knowledge of all the circumstances—if these be the facts, what are we to do, what are we to say ? Are we to say that there is no man responsible ?

Sir CHARLES HIBBERT TUPPER. Allow me to say that the partner of the hon. gentleman speaking believes we will obtain the money in the civil suit. He is engaged by the Crown in obtaining it.

Mr. McCARTHY. I have no desire to differ from my partner as to whether the money can be obtained or not.

Sir CHARLES HIBBERT TUPPER. He knows the facts better than you do.

Mr. McCARTHY. I hope he will be a little more successful than the hon. gentleman's representatives have been in Montreal. I only say this, and I do not hesitate to say it, that if it was not the Crown that was a party to the suit, for there are technical rules to the effect that the Crown shall not be prescribed by the dishonesty and negligence of its own servants in seeking to recover money, I venture to state, on the little reputation I have, that the money could not be recovered. If the Minister of Railways paid this money to St. Louis with knowledge and notice of the facts, if I know anything about

the rules of law which govern the recovery of money paid under such circumstances, I say the action would not be successful. But the money being paid out by the Crown in this case, the Crown can set up the negligence of the Minister of Railways.

Sir CHARLES HIBBERT TUPPER. You are differing from the opinion of your partner.

Mr. McCARTHY. This plea may be urged by Her Majesty in the case against this man, and I do not know whether judgment would lie for the recovery of money under these circumstances or not, and whether it may be recovered and not retained by the person who obtained it illegally and improperly in that respect. For my part I have no hesitation in voting for every line of the resolution which my hon. friend has moved. I have passed by, because it was unnecessary at this hour to go into them, various questions which have been so fully and ably discussed in the course of this debate. I agree that there was no ground whatever for letting this work by days' labour. But the department and the Government are above all law. They pay no attention to the statutes. I was astonished only last year to find with respect to the Sheik's dam that, without a shadow of pretense, and the Minister of Railways admitted in his speech that there was no ground for his action, a contract was let to William Davis & Bro. without tender and in violation of the clause in the Act of Parliament. If I read the Act aright, there is no ground whatever here, and when the Minister of Justice pleads the advice of engineers on the construction of an act of Parliament, then I think he is asking a little too much at our hands. I quite agree that in all matters of a technical nature the Minister has a right to rely on the officers of his department. But this is not a matter of engineering ; it is the matter of the construction of a statute. Surely the hon. gentleman can read the language of the statute and decide whether there is any ground under either of the clauses to do what he did in this case, and whether this was a work that could be done more expeditiously by days' labour than by contract.

Sir CHARLES HIBBERT TUPPER. The engineers thought so.

Mr. McCARTHY. They did not.

Sir CHARLES HIBBERT TUPPER. They advised so.

Mr. McCARTHY. You will not find it in the record, or I stand corrected. The work could have been done just as expeditiously by contract. Moreover, the statute says that only when the work can be done more expeditiously and economically is permission granted to do work by days' labour. We have the fruits of economy in this case. So