

legislation—however extraordinary it may appear from a juristic point of view—is ultra vires or not. But I am asked to close the doors of the court against a litigant who questions the power of the legislature to free the commission from the liability which would otherwise be cast upon it by law."

An appeal from the above judgment being taken to the Divisional Court (see post, *infra*, p. 164), the judgment of Mr. Justice Latchford was upheld, and the following suggestive remarks were made by Mr. Justice Anglin, who delivered the judgment of the court: "Whatever may be done towards validating these contracts by legislation, the court should, I think, assume that, pending litigation in which the power of the municipalities to make the contracts is questioned, the Lieutenant-Governor would not by Orders in Council declare them binding upon the Commission; and that, in the event of the courts declaring them to be ultra vires of the municipal corporations, such Orders in Council would not thereafter be passed."

But there is even a more serious matter to be considered than the apparent blunders of the Commission and its disregard of the rights of citizens or even the refusal of justice to an individual citizen. The one may be got over, and the other forgotten, but the damage to the financial standing of the province caused by such recklessness of proceeding, and such setting aside of the terms of contracts solemnly entered into, will not be so easily overcome.

It must also be remembered that through the operation of this Commission the provincial government is entering directly into competition with a company formed for a similar purpose in which a large amount of money has been invested and which had previously undertaken all the risks and successfully overcome the difficulties attendant upon carrying out a new and untried experiment. The capitalists who invested their funds in these ventures naturally ask how it is that the government which had pledged its credit not to do so entered into competition with them before their undertaking had fairly come into operation, but just after it had proved that what was a daring and costly experiment could be brought to a successful issue. Capitalists