

drawn by the company from the bank, thus increasing the amount of the overdraft by that sum.

To the extent of \$6,000, at least, the evidence does not bear this out. Even had it been so, I am unable to agree with the defendant that the \$9,000 should be considered as a set-off to the liabilities which, by the agreement, are to be paid and discharged by defendant. Had the \$9,000 been withdrawn from one place of deposit and deposited with the Government as a deposit in the same manner and on the same terms on which it had been in the former place of deposit, there might have been some force in defendant's contention; but that is not what happened here.

The deposits with the Government were an essential and material part of the contracts made by the Cape Breton Dredging Company, Limited, with the Government, and could not have been withdrawn at the will of the depositors. The "entire assets" of that company, including the contracts, were sold to the new company, and there is no evidence of any agreement or understanding that the deposits were to be treated otherwise than as part of the contracts.

I do not agree with defendant's second contention, namely, that the General Construction and Dredging Company, Limited, obtained "corresponding value," for the unpaid accounts of the Cape Breton Dredging Company, prior to March 18th, 1909.

Down to the time of the negotiations which ended with the taking over of the assets and business of the latter company, there was no sale in contemplation, and it cannot be said that the accounts and liabilities which were then being incurred for maintenance of and repairs and improvements to the dredging plants, wages, supplies for the crews, insurance premiums, etc., were, or were intended to be, at the time they were incurred, for the benefit of any other person or body than that company.

When Thompson, in March, 1909, made the inspection, he undoubtedly based his judgment of the assets and plant and their value, on what he saw them then to be. He says that in making his inspection and report plaintiff gave him a free hand and did not dissent from anything he did in the matter; and this evidence is uncontradicted. He says, too, that when making the inspection and report on which plaintiff entered into the transaction with the defendant he recognized and understood that the liabilities and accounts of the