

Mr. Fortier: In my opinion, there could be no question of that. Mr. Justice Landreville pointed it out in his testimony before Commissioner Rand, and Commissioner Rand himself I think acknowledged it in his report. This final order was a mere formality, all the more so, since the witnesses had been heard long before. The Northern Ontario Natural Gas witnesses had been heard on June 21, 1956, and the right to cross-examine those witnesses was suspended until such time as third reading of the bylaw was given. It was expected at the time that a third reading would be given prior to June 21, but because of certain matters, such as a letter from the City Solicitor, Mr. Kelly, to all members of the council, third reading was postponed until July 17. After third reading was given, there was a continuation of the hearing before the fuel board and the order was granted, the convenience and necessity and the approval of the franchise.

Mr. McQuaid: But the implication runs through the whole report that the Justice was given these for the influence he could exert in getting this franchise. Is that not correct?

Mr. Fortier: The way I assessed the report I did not think that this was the main consideration. I am just giving you an opinion, and I hope you appreciate this; I felt that it was not so much the giving of the shares—to use your own expression—was not so much to facilitate the passing of the franchise bylaw in the opinion of Commissioner Rand, as to reward to thank the then mayor for the passing of the bylaw. In other words, the accent was put more on the “thank you” than on the “please help me”.

Mr. McQuaid: This is a pretty fine line. The “please help me” would have to be there before the “thank you”.

Mr. Fortier: It is certainly quite evident from Commissioner Rand's report that he believes that it was there.

Mr. McQuaid: But the thing I wondered about was the letter actually advising the Justice that the shares were going to be allotted to him, was not written until after the bylaw had been passed. I think it was three days after the third reading of the bylaw and two days after the date of the agreement and even the day itself that the franchise agreement was signed.

Mr. Fortier: That is correct.

Mr. McQuaid: So there is no evidence that the Justice was offered anything by way of inducement prior to the passing of the bylaw, and so forth?

Mr. Fortier: Definitely not, but there are inferences drawn by Commissioner Rand to that effect, but in my opinion, there is certainly no tangible documentary or verbal evidence of that.

The Joint Chairman Mr. Laflamme: Do you have further questions, Mr. McQuaid.

Mr. McQuaid: Just a moment, Mr. Chairman. I think that is all, Mr. Chairman.

Mr. Tolmie: I have a few general questions of counsel. I think we all realize the apparent danger of one man, no matter how eminent, judging a judge. I think we are all very much aware of the need for the independence of the judiciary being upheld. This is why I think we are sitting here. In essence we are reviewing his conclusions, basically.

Now, you have studied the report perhaps much better than the members themselves. You have gone through it, you have divided the report, so we could absorb the contents much more readily.

The Joint Chairman Mr. Laflamme: Would you bring your microphone closer to you.

Mr. Tolmie: My observation is this: You have mentioned the rationale of the report, which I think, of course, is very important, but you also have mentioned *obiter dicta* which I think is equally important. In a sense, by his *obiter* he has—that is Justice Rand—made some very unflattering comments concerning the character, general disposition and attitude of Justice Landreville. He states for example:

His emotions are active and he can be highly expansive;—

Frankly I do not see anything wrong with that.

—he is fascinated by the glitter of success and material well-being.

Mr. Fortier: Where are you reading from, sir?

Mr. Tolmie: I am reading from page 70.

His outlook is indicated by a residence in Mexico, as well as a lodge some miles from Sudbury.

I believe this to be completely irrelevant, and I think most of us are perhaps fascinated by the glitter of success.