

partnership, was granted, and the Eastern Trust Co. was, in 1904, appointed receiver. A reference was directed to take the partnership accounts, including an account of what was due from Mackenzie & Mann on the above-mentioned contract. The Provincial Treasurer had been made a party to the action, but it was dismissed, as against him, on the ground that the Court had no jurisdiction over him. Subsequently and with full knowledge of the injunction and receiver, the Provincial Government paid to Hervey or the Hervey Trust Co. and others certain claims which did not come under the head of "labour or supplies," which Mackenzie & Mann claimed to deduct from their purchase money. The Supreme Court of Canada thought such payments were in the discretion of the Crown and could not be interfered with. Their Lordships of the Privy Council, however, were unable to agree with the view of the Supreme Court as to the powers of the Government and to the presumption to be drawn as to the nature of the payments. In their Lordships' view the question whether the claims in question came under the head of "labour and supplies" was a question of construction, which the Government should have submitted to the Court before making the payments. Their Lordships do not agree to the view that, as no injunction could be granted against the Crown, no one but the parties to the suit were bound by the injunction or the appointment of the receiver. In the present case the Government had paid moneys in respect of claims which, by no latitude of construction, could come within the words "labour or supplies," and had also paid a large sum to Hervey, who was restrained from receiving it. If an individual had done this, the wrongful payment would have been a contempt of Court, and their Lordships of the Privy Council say: "In the case of the Crown, there is no ground for Idington, J.'s, proposition that the Government may fairly say that they were given such power by the legislature over the subject matter, and that the Courts have no ground for interfering at all, directly or indirectly, with the exercise of such discretion. There is nothing on which to found the existence of the alleged discretion or to support a decision which pronounces the Executive Government free to dispose of money the right to which is *sub judice inter parties*, and held *in medio* by the order of the Court." This is, we need hardly say, a very important deliverance in the interests of justice. Their Lordships, moreover, say: "The second point taken by Idington, J., is equally noticeable and even more important. The non-existence of any right to bring the Crown into Court, such as exists in England by petition of right and in many of the colonies by the appointment of an officer to sue and