

3 GEORGE V.

SESSIONAL PAPER No. 57

A. 1913

PUBLIC SERVICE COMMISSION

1912

VOL. I.

REPORT OF THE COMMISSIONERS

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November 9, 1913.

To The Right Honourable
R. L. BORDEN, K.C., M.P.,
Prime Minister and President of Privy Council,
Ottawa, Ont.

SIR,—We have the honour to forward herewith our report in respect of the matters referred to us by His Royal Highness, the Governor General, under Commission dated 21st December, 1911.

Attached thereto will be found a special report on the subject of Government Dredging; and another relating to the Department of Public Printing and Stationery, together with exhibits and appendices.

Additional special reports referred to in this report, with their respective exhibits and appendices, have already been placed in your hands, viz.:

Report on Timiskaming Dam Contract.

“ Sorel Ship Yard.

“ Government Dredging (preliminary).

“ Dismissal of R. E. Cook.

We have the honour to be, sir,

Your obedient servants,

G. N. DUCHARME,

R. S. LAKE,

Commissioners.

[L.S.] ARTHUR.

CANADA.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India,

To all to whom these presents shall come, or whom the same may in any wise concern,

GREETING.

CHAS. J. DOHERTY, Attorney General, Canada, } **W**HEREAS in and by an order of Our Governor General in Council bearing date the twenty-first day of December, in the year of Our Lord one thousand nine hundred and eleven (a copy of which is hereto annexed) provision has been made for an investigation and inquiry, by our Commissioners therein and hereinafter named, into and concerning all matters connected with or affecting the administration of the various departments of the Government and the conduct of the public business therein, as upon reference to the said Order in Council will more fully and at large appear.

Now KNOW YE that by and with the advice of Our Privy Council for Canada, we do, by these presents, nominate, constitute and appoint Alfred Bishop Morine, of the City of Toronto, in the Province of Ontario, Esquire, one of our Counsel learned in the law, Guillaume Narcisse Ducharme, of the City of Montreal, in the Province of Quebec, Esquire, and Richard Stuart Lake, of Grenfell, in the Province of Saskatchewan, Esquire, to be our Commissioners to conduct such inquiry.

To have, hold, exercise and enjoy the said office, place and trust unto the said Alfred Bishop Morine, Guillaume Narcisse Ducharme and Richard Stuart Lake, together with the rights, powers, privileges and emoluments unto the said office, place and trust of right and by law appertaining during pleasure.

And, we do further, by these presents, nominate, constitute and appoint you the said Alfred Bishop Morine to be the Chairman of such Commission.

And, we do hereby, under the authority of the Revised Statute respecting Inquiries concerning Public Matters, confer upon our said Commissioners the power of summoning before them any witnesses and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as our said Commissioners shall deem requisite to the full investigation of the matters into which they are hereby appointed to examine.

And we do hereby require and direct our said Commissioners to report to Our Royal Highness the Governor General in Council the result of their investigation with the evidence taken before them and any opinion they may see fit to express thereon.

IN TESTIMONY WHEREOF, we have caused these our letters to be made patent and the Great Seal of Canada to be hereunto affixed.—Witness: Our Most Dear and Entirely Beloved Uncle and Most Faithful Counsellor, Field Marshal, His Royal Highness Prince Arthur William Patrick Albert, Duke of Connaught and of Strathearn, Earl of Sussex (in the Peerage of the United Kingdom); Prince of the United Kingdom of Great Britain and Ireland, Duke of Saxony, Prince of Saxe-Coburg and Gotha; Knight of Our Most Noble Order of the Garter; Knight of Our Most Ancient and Most Noble Order of the Thistle; Knight of Our Most Illustri-

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ous Order of Saint Patrick; one of Our Most Honourable Privy Council; Great Master of Our Most Honourable Order of the Bath; Knight Grand Commander of Our Most Exalted Order of the Star of India; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George; Knight Grand Commander of Our Most Eminent Order of the Indian Empire; Knight Grand Cross of Our Royal Victorian Order; Our Personal Aide-de-Camp, Governor General and Commander-in-Chief of Our Dominion of Canada.

At Our Government House, in Our City of Ottawa, this twenty-first day of December, in the year of Our Lord one thousand nine hundred and eleven and in the second year of Our reign.

By Command.

W. J. ROCHE.

Secretary of State.

P. C. 2928.

CERTIFIED copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor General on the 21st December, 1911.

The Committee of the Privy Council have had before them a memorandum, dated 20th December, 1911, from the Honourable R. L. Borden, the Prime Minister, stating that he has had under consideration the Order in Council, approved on the 8th day of May, 1907 (copy of which is hereto attached).

The Minister observes that by the terms thereof the gentleman therein mentioned were appointed Commissioners to inquire into and report upon the operation of the then existing Civil Service Act and kindred legislation with a view to proposing such changes as might be deemed advisable in the best interests of efficiency in the public service.

The Minister further observes that from the report of the Commissioners then appointed it appears that their inquiry extended to only a few of the departments of the Government and that in no case does it appear to have been complete.

The Minister remarks that it is desirable to take any action which may aid in securing increased efficiency and more thorough organization and co-ordination of the various departments of the Government and that to this end it is important to make such inquiry and to obtain such information as will enable any existing defects or abuses to be remedied, secure the adoption of more efficient methods, remedy any existing abuses and more thoroughly safeguard the public interest.

The Minister considers it advisable, therefore, to continue and enlarge the inquiry which was commenced under the Order in Council of May 8th, 1907, and in that connection to give to the Commissioners such enlarged powers as may be necessary for the purposes above set forth.

The Minister, therefore, recommends that commissioners be appointed to investigate and to inquire into and concerning all matters connected with or affecting the administration of the various departments of the Government and the conduct of the public business therein and especially (but without restricting the generality of the foregoing) the following matters:—

1. The methods employed in the transaction of public business.
2. The control of appropriations and expenditure.
3. The construction and maintenance of public works and the carrying on of dredging operations.

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4. The administrative methods and operations of the chief spending departments.
5. The administration and alienation of the public domain.
6. The discipline and efficiency of the departmental staffs.
7. The duplication of the same or similar work in two or more departments.
8. Any other matters embraced in the scope of the Order in Council of 8th May, 1907, or mentioned in the report of the Commissioners thereby appointed.

The Minister further recommends that such inquiry should extend and relate to such period or periods of time preceding the date of the Commissioners' report as in the opinion of the Commissioners should be the subject of investigation and inquiry having regard to the public interest and to the facts and circumstances of any particular inquiry.

The Minister also recommends that for the purposes aforesaid the Commissioners be empowered to appoint a secretary and to engage the services of such expert accountants, engineers, technical advisers, or other experts, clerks, stenographers and assistants, as they may deem necessary or advisable; that the Commissioners be also authorized to retain the services of counsel to aid and assist the Commission in the inquiry; that the Commissioners be required to report to His Royal Highness in Council the evidence taken upon the said inquiry, together with the findings of the Commissioners, and moreover that such reports shall, if deemed expedient by the Commissioners, or if required by His Royal Highness in Council, be made from time to time with respect to each department or branch thereof, as the inquiry proceeds;

That the Commissioners be requested to proceed with the inquiry as rapidly as possible;

That the Commissioners be appointed under the provisions of the Inquiries Act, Revised Statutes of Canada, 1906, Chapter 104, Part I, and have power to summon witnesses, to require them to give evidence under oath, orally or in writing, or on solemn affirmation if they are persons entitled to affirm in civil matters, and to produce such documents, records and things as the Commissioners may deem requisite to the full investigation of the matters which they are appointed to examine.

The Minister further recommends that Alfred Bishop Morine, of the City of Toronto, one of His Majesty's counsel learned in the law; Guillaume Narcisso Ducharme, of the City of Montreal, banker; and Richard Stuart Lake, of Grenfell, in the Province of Saskatchewan, farmer, be appointed as such Commissioners; that the said Alfred Bishop Morine be the Chairman of the said Commission; and that a Commission do issue to them accordingly conferring upon them the powers and duties aforesaid and such other powers as to commissioners in the like cases by law appertain.

The Committee submit the same for approval.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

P.C. 1108.

CERTIFIED Copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on May 8, 1907.

On a Memorandum dated 7th May, 1907, from the Minister of Finance, stating that while the general principles of the Civil Service Act are regarded as satisfactory, there are matters connected with the operation of the Act and the services and compensation of officials of the Government which require more careful inquiry and consideration than can be given by the Ministers of the several departments and, therefore,

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it is desirable that such matters be inquired into by a Commission composed of gentlemen specially chosen for such purposes;

The Minister, therefore, recommends that the following gentlemen, J. M. Courtney, C.M.G., Ottawa, chairman; Thomas Fyshe, Montreal, and J. G. Garneau, Quebec, be appointed Commissioners to inquire into and report on the operation of the existing Civil Service Act and kindred legislation with a view to the proposing of such changes as may be deemed advisable in the best interests of efficiency in the public service;

That such inquiry should include the following subjects:

1. General operation of the Civil Service Act;
2. Classification of the Service;
3. Salaries;
4. Temporary employment;
5. Technical employees;
6. Promotions;
7. Discipline, hours of service, etc.;
8. Efficiency and sufficiency of the departmental staffs;
9. Retiring allowances;
10. Any other matter relative to the Service which in the opinion of the Commissioners requires consideration;

That while the Service at Ottawa should be the first subject for the consideration of the Commissioners, they be authorized and requested to extend their inquiry to any portion of the Outside Service that may come under their observation and which the time at their disposal may permit them to take into their consideration;

That the Commissioners be requested to proceed with the inquiry as rapidly as possible with a view to the presentation of their report at the next session of Parliament;

That the Commissioners be appointed under the provisions of the Statute respecting inquiries concerning public matters and have power to summon witnesses, to require them to give evidence under oath, orally or in writing or on solemn affirmation if they are persons entitled to affirm in civil matters and to produce such documents and things as the Commissioners may deem requisite for the full investigation of the matters into which they are appointed to examine.

The Minister further recommends that Mr. Thomas S. Howe be appointed Secretary to the said Commissioners.

The Committee submit the same for approval.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

P.C. 1491.

CERTIFIED Copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor General on 30th May, 1912.

The Committee of the Privy Council have had before them a memorandum dated 28th May, 1912, from the Right Honourable Robert Laird Borden, the Prime Minister, stating that he has had under consideration the Order in Council approved on 21st December, 1911, appointing the Honourable Alfred Bishop Morine, Guillaume Narcisse Ducharme and Richard Stuart Lake as Commissioners to investigate and to inquire into and concerning all matters connected with or affecting the administration of the various departments of the Government and the conduct of the public business therein.

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The Prime Minister observes that during the progress of certain inquiries which have been proceeding under the supervision of the Commission the Hon. Alfred Bishop Morine has tendered his resignation as a member of the said Commission and that the consideration of such resignation has been postponed pending the completion of the inquiries alluded to.

The Prime Minister further observes that the inquiries above mentioned have now been practically completed and that the reports of the accountants and other experts upon such inquiries have been or will shortly become available.

The Prime Minister further observes that the duties of Mr. Morine as Chairman of the said Commission, in so far as the work has been brought to the attention of the Government, has been discharged with ability and energy and in a thoroughly impartial manner. It is thought, however, for the reasons which Mr. Morine himself has urged, that his resignation ought to be accepted.

The Committee, therefore, recommend that the resignation of the Hon. Alfred Morine as a member of the said Commission, be accepted as of the 1st day of June A.D. 1912.

The Committee further recommend that on and from the said 1st day of June, 1912, the said Guillaume Narcisse Ducharme and Richard Stuart Lake be authorized and empowered to perform and discharge all the duties and do all the acts which under the terms of the said Order in Council of the 21st December, 1911, could be done or performed by the three members of the Commission thereby constituted and appointed; and that the said Order in Council of 21st December, 1911, be amended accordingly.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

REPORT

To His Royal Highness the Governor General of Canada in Council.

MAY IT PLEASE YOUR ROYAL HIGHNESS,—

The Commissioners appointed by Your Royal Highness under Commission dated 21st December, 1911, have the honour to present the following report:—

The duties assigned to the Commissioners, as set forth by the Order in Council of the 21st December, 1911, may be briefly summarized as follows:—

(a) To continue and enlarge the inquiry which was commenced under the Order in Council of 28th May, 1907, into the operation of the Civil Service Act and kindred legislation, with a view to proposing such changes as might be deemed necessary in the best interests of efficiency in the public service.

(b) To investigate and inquire into and concerning all matters connected with or affecting the administration of the various departments of the Government and the conduct of the business therein.

At a very early stage of their proceedings the magnitude of the task before them became abundantly apparent to the Commissioners. Since Confederation the administrative machinery of the Dominion as a whole has never been reported on or reorganized; nor have the various parts been considered in relation to the whole. There has been an absence of one central authority taking cognizance of the various departments of the public service, and endeavouring to harmonize and co-ordinate them into one organized administrative body. Owing to the great development of the country exigencies have arisen from time to time, and services have been created to meet these exigencies; but no organized effort has been made to co-ordinate these services, and assign to each its proper status and duties in the general machinery of the administration.

To suggest some workable means by which this condition of affairs could be remedied appeared to be the goal at which the Commission should aim.

The inquiries and report of the Commission of 1907 were followed by the enactment by Parliament of the Civil Service Amendment Act, 1908. The principal provisions of this Act may be briefly summarized as follows:—

(a) The re-classification of the Inside Service.

(b) The creation of a Civil Service Commission charged with the duty of selecting persons to fill vacancies in the Inside Service, and of examining into the qualifications of persons recommended for promotion therein.

(c) The determination and definition by Order in Council of the individual organization of the various departments of the Government, with the number and character of the offices, clerkships and other positions in each, and the duties, titles and salaries thereafter to pertain thereto.

Action was early taken in regard to the first two of these provisions; but the third and more difficult one has been only partially carried out and it appeared to your Commissioners that their first efforts might well be centred on this question, the successful settlement of which would be a long step towards the end they had in view.

How best to commence and carry on the study of the existing machinery and methods, some knowledge of which was essential for an intelligent consideration of the question referred to, was a feature to which much thought was given by the Commission. As a result of their deliberations, inquiries into the methods and functions of the various departments of the Government were intimated. Pending the result of these inquiries the Commission undertook investigations into certain specific matters which were brought to their attention, with the double object of familiarizing them-

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selves with the details and routine of the departments on the one hand, and on the other of studying where the present system appeared to be defective.

The first of these was an inquiry into the circumstances connected with the building of a dam on Lake Timiskaming, during the course of which the Commission were able to get a considerable insight into the procedure and methods of doing business in the Department of Public Works. The result of their investigations has already been set out in considerable detail in a report submitted on the 2nd April last. Some of the weak points in the existing procedure were impressed upon them by the array of Orders in Council under the authority of which this undertaking was conducted from its inception; and certain improved methods which might be adopted in dealing with engineering works of this nature suggested themselves to the Commissioners, and were mentioned in their report.

During the course of this investigation, other inquiries were set on foot in regard to various other matters which had been brought to the notice of the Commission.

One of these was the unsatisfactory condition of affairs at the Government Ship Yard at Sorel, which was causing the question to be seriously considered as to whether it would not be better to discontinue any further new work at the yard; reduce the establishment; and use it merely for the purpose of repairs to the dredging fleet of the St. Lawrence Ship Channel. After searching inquiries by experts into the management, expenditure, workmanship and cost of construction, as well as personal investigation on the spot, the conclusions and recommendations of the Commission were embodied in a report which was presented on the 31st May last. It is understood that the action taken by the Government in consequence of this report has already resulted in a great improvement on the conditions previously existing.

A complaint by the second steward of the Canadian Government steamer *Arctic* regarding the conduct of the officer commanding during the cruise of that vessel in the far north in the years 1910-1911, was brought to the notice of the Commission. It was to the effect that use had been made of the expedition to carry on an extensive trade with the Esquimaux; and that Government stores had been used for the purpose of such trade. As the statements made reflected on the honour and integrity of a well-known officer, the Commission did not deem it desirable to give them the publicity that a public inquiry would involve unless they were satisfied that they were not of a trivial or personal character. Counsel was therefore employed for the purpose of advising them on this question. During the course of his inquiry their counsel intimated that the records of the Department of Marine and Fisheries were not of a nature to afford accurate information regarding the nature and quantity of the stores taken on board the ship, and the amount returned into store at the conclusion of the voyage; and he was in consequence authorized to employ accountants to examine into this matter. Before the accountants had concluded their labours, and counsel was able to report, the officer in question had left Canada on a private expedition to the Northern Seas and any further action, if action be deemed desirable, has necessarily to be postponed till his return.

At the request of the Minister of Marine and Fisheries the Commission instituted an inquiry into the affairs of the Montreal Harbour Commissioners, who are appointed by the Governor in Council, and under whose direction large sums of government money are being expended in the improvement of that harbour. The firm of Messrs. Price, Waterhouse and Company were instructed to audit the transactions of the Harbour Commissioners for the five years ending 31st December, 1911; to prepare statements of accounts and statistics showing the nature and volume of the business done; and to inquire into and report upon the organization and equipment provided, and the methods and procedure employed in carrying on the work. Their report dealing with these matters in considerable detail and making some valuable suggestions is appended hereto.

The Commission also instituted an inquiry into the conditions under which Dredging has been carried on in different parts of the Dominion by the Department of Public

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Works. The result of their inquiries early convinced them that certain changes in the organization of the departmental service were of the highest importance. They were also of opinion that, in order to encourage competition for such work as it was proposed to have done by contract, certain changes should be made in the specifications of the tenders for the same. Their recommendations in these respects were embodied in an interim report which was issued early in order that any changes, which might be adopted as a result of them, could be put into force before the opening of the dredging season.

A considerable mass of papers, records and other material in connection with dredging performed during a number of years for the government by private concerns under contract, have been examined by the Commission. The result of their investigations has been to convince them that the system of dredging by contract is a very costly one, and that so long as dredging is purely a matter of government concern, it would be more economical for the government to provide their own plant and do the work themselves. Their reasons for arriving at this conclusion, as well as certain remarks on the subject generally, are appended hereto as a separate report.

The Commission have for a considerable time past been conducting an investigation into the Department of Public Printing and Stationery. In the earlier part of the year, they devoted some attention to the case of Mr. R. E. Cook, a former official of the department, who was dismissed from the service in October, 1910, at the instance of the then Secretary of State. A finding in connection with this case was submitted on 31st May last. The evidence then taken disclosed certain features in connection with the management of the department, the knowledge of which has been of value to them in their further inquiries into its affairs. A report setting forth in considerable detail their proposals for the reorganization of the department, and for the more efficient and economical performance of certain of its functions, is appended hereto.

The recommendations which the Commission have been able to make in connection with the foregoing investigations will, they hope, lead to improvement in the Services concerned. One result in special has been, as anticipated, to give the Commission a better insight into the methods and general working of the departments than they could probably have obtained in any other way.

The Commission have however for some time felt that it was impossible for them to carry on simultaneously a number of such inquiries in different Departments, and at the same time to give the attention necessary for the thorough consideration of the wider question of the better general organization of the Public Service as a whole. They have also come to the conclusion that the work in connection with investigation into some of the matters specially brought to their notice could more conveniently and thoroughly be performed by Departmental inquiries, instituted at the instance of the heads of the respective Departments. They were able the more readily to arrive at this conclusion as it was obvious that, as the main object for the creation of the Commission was that they should make suggestions for such changes in the organization of the Departments as would prevent the recurrence of any irregularities and faults of administration which might be found to exist, a general scheme upon which organization of the whole Service should be based ought to precede any recommendations which the Commission might be disposed to make in regard to individual Departments. This remark, it may be noted, does not apply with the same force to the Department of Public Printing and Stationery which has from its first formation been considered rather as a business establishment than an ordinary Department of the Public Service.

They have therefore devoted most of their attention to the compiling of information and data in regard to the functions and organization of the various departments and their branches, without which they did not feel that it was possible to deal intelligently with the question.

At an early stage in their proceedings the Commission invited the Civil Service Association and the Civil Service Federation, as representatives of the personnel of

both the Inside and Outside Services, to meet them and discuss from their own standpoint the subjects of classification, promotion, superannuation and retirement, and other questions, a satisfactory solution of which the Associations believed to be essential to the building up of a Service worthy of the best traditions.

They have also collected a considerable amount of evidence in regard to the Outside Service, having special reference to the question of the feasibility of its being brought at an early date under the operation of the Civil Service Act of 1908 as contemplated by Parliament.

It is the Outside Service with which the general public come most into contact, and their efficiency has a material effect on public business and convenience.

It is the Outside Service also who are responsible for the actual collection of the bulk of the revenue on the one hand, and on the other for the administration and expenditure in every part of the Dominion of the sums annually voted by Parliament. In numbers they greatly exceed the Inside Service and their duties, equally as important, are carried out, often in the face of extraordinary difficulties, with a fidelity and ability worthy of all praise. The fact that the members of the Outside Service are so widely scattered has prevented them from taking united action to get the same consideration of the many questions affecting their interests as the Inside Service have succeeded in securing. Moreover, their duties are so varied, and they cover such a vast area of country, that any legislation to deal with them as a whole will necessarily be of a more difficult and complex nature than legislation to deal with the Inside Service, concentrated as it is at headquarters.

Nevertheless the problem to be solved is the same in both Divisions of the Service, and it is, in a few words, how to attract into the employ of the State the ablest and best men that the country produces; how to develop their best energies in its service and to get them to look upon it as their life's work.

That there still is in the Inside Service, in spite of all efforts hitherto made to the contrary, a lack of uniformity in such matters as the character of the duties assigned to the different Classes, the salaries paid in proportion to the responsible nature of the work performed, and other minor matters such as vacation, sick-leave, hours of attendance, etc., is an undoubted fact. And that the same condition exists in respect to all these points and many others, in an aggravated form, in the Outside Service is no less true. For instance, some Departments give their officials, in certain parts of the country where living expenses are exceptionally high, provisional allowances to meet these expenses, while other departments do not. Some allow their officials a regular annual increase to their salaries, contingent on good behaviour, while other Departments give increases spasmodically, and the official has either to make personal application for it, or to leave it to the discretion of his chief to make application to Ottawa on his behalf. The salaries of officials in some Departments differ in an extraordinary degree from those holding similar rank in other Departments. In some Departments the salaries paid are subject to deductions for retirement or superannuation funds, or for the payment of guarantee bonds, while in others they are not.

Nor can the responsibility for this state of affairs be specially laid at the door of any Minister or set of Ministers. It must be attributed to the fact that hitherto there has been no central authority charged with the duty of assimilating, in so far as might be possible, the status and conditions of service of the outside officials of the various Departments of the Government. Careful supervision and inspection is carried out by the various head offices in Ottawa over their own officials in all parts of the Dominion, but each is striving to meet its own problems and difficulties in its own way.

In a country where the increase in population and business is so enormous as it has been in the Dominion during the last few years, the difficulties of keeping the Public Service in a position to meet all exigencies is undoubted. Especially is this the case in the Western Provinces where the Services are of such comparatively recent date. The fact that appointments to the Outside Service have hitherto been

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considered a matter of local patronage has added to these difficulties by creating a local opposition to having the highest positions filled, as it would appear natural to suppose that they should be, by the most highly trained and experienced officials that were to be found, no matter from what part of the Dominion they came.

In the far West where a special inquiry was made by the Commission, perhaps the most pressing problems at the present moment would appear to be that of obtaining good men for the junior ranks of the Service, and of retaining their services when they have been procured. This is a difficulty experienced by all Departments and only varies in its intensity according to the pay, conditions of service, and future prospects in each. An abundant supply of well-educated and ambitious young men is to be found throughout the West and, given a fair salary to commence with, promotion by merit, and a prospect of attaining to the highest positions, there would be no difficulty in getting the best of them to enter the service of the State.

It must be remembered that there is much competition for good men from the large commercial concerns in the West, such as banks, insurance and loan companies, railways, etc., and that these give better salaries and other advantages than are now offered by the Government Service. The Provincial Governments also give considerably better pay to their officials. On the other hand there will always be a number to whom the status and permanency of a government office will be a sufficient attraction if there is a living wage to begin with and a reasonable prospect for the future.

The cost of living has of late years increased very greatly in every part of the Dominion, but the increase is specially marked in the West. It is probably true that living has always been more expensive there than in the East, but the proportionate increase in the West within the last year or two has been greater than in the East. Evidence was offered to the Commission at every place visited in regard to both these points. Officials transferred from Ottawa and other Eastern cities to the West during the last five years or so, testified that on arrival they found the cost of living from twenty to thirty per cent higher and with fewer comforts than in the East. Officials long resident in the West testified that the increase in the cost of living there, within the last five years, has been at least thirty per cent.

These conditions have been recognized by some of the Departments who give a special provisional allowance to the junior ranks in their service. This provisional allowance, however, is only given by three or four of the Departments and is not of a uniform rate. One Department gives \$180 a year to its junior ranks, another \$150, another \$100, while a fourth gives \$200 to one of its branches and nothing to another branch. In some of these Departments it is given only to the lower salaried officials; when they reach a certain salary they lose the allowance.

The matter of provisional allowance is not the only one in which there is a marked difference between the conditions of service in the different Departments. As has already been pointed out there are wide differences in the salaries given to officials of similar rank; in the manner in which increases to those salaries are made; in the deductions for the retirement and superannuation funds, and the payment for guarantee bonds. With reference to the bonds, one official informed us that no deduction was made from his salary and the salaries of his subordinates by the head office, but that they were required to pay for them directly from their own pockets. He not only paid for his own bond, but also paid for those of his subordinates as he did not think they could afford it out of their small salaries. In the matter of vacation, some Departments give three weeks, some two and some none.

When, as is generally the case, most of the Departments have their offices in the one public building, the difference in the treatment of the various officials is very noticeable and leads to considerable dissatisfaction.

It has already been pointed out that the Outside Service is the one which comes most closely into touch with the general public. This is especially the case with the Postal Service, in the efficiency of which almost every individual in the country is

personally interested. In the Post Office the difficulty of keeping good men in the lower grades of the Service appeared to be exceptionally great. In Edmonton seventy per cent of the staff of a year ago had left. In Saskatoon seventy per cent had left in eighteen months. In Regina half of the staff had left in one year, with the consequence that, as it has recently been found necessary to increase the staff there, seventy-five per cent of those now employed are inexperienced. Similar difficulties were stated to exist in all the other Post Offices visited, with the consequence that the public are suffering great inconvenience in regard to this most important Service. Some improvements were effected at the last session of Parliament in regard to the salaries of the Post Office officials, but this is scarcely sufficient. The Postal Service itself is unpopular on account of the long hours, and night and Sunday work. The staff have to take their turn at the latter, and every third or fourth week have to work the full seven days. No day off during the rest of the week is given to compensate them for Sunday work, and no extra pay, and no Saturday half holiday is allowed. Then again, in consequence of the junior standing of such a large portion of the staff, junior clerks with low rates of pay have to fill very responsible offices. In one instance the clerk in the Money Order office gets \$780 a year, and handles \$5,000 to \$10,000 a day. In another a junior third class clerk is the accountant in an office of which the income is nearly four hundred thousand dollars a year. It is contended that the office should carry the salary and that a man should be paid for the work he does; that clerks receiving very small pay should not hold such responsible positions and have to make up the small deficiencies which are bound occasionally to occur.

It is obvious that in a post office new employees can be of very little use until they have gained some experience, and some local knowledge; and it is reasonable to suppose that with inducements sufficient to keep trained men in the Service, not only would the public benefit greatly from an improved service, but fewer men could do the work and an economy would be effected thereby.

The conditions existing in the Postal Service are given as an instance, but the same difficulties in retaining the services of good men in the junior ranks of the Outside Service appear to exist very generally throughout the West, and instances could be multiplied. A possible exception to this is the Customs Service, in which initial salaries for the West are \$900 a year.

While the need of bettering the condition of the lower officials, if the Public Service is to be efficiently carried on, was primarily urged upon the Commission, the position of those filling the higher ranks of the Service was also brought to their attention. As has been pointed out already, the cost of living has increased greatly and this affects the higher ranks just as it does the lower ones. It was argued that public officials are expected to keep up a certain position and that in many cases those who have done so in the past are now, in consequence of the abounding prosperity around them, being obliged to move into smaller houses, and to reduce their scale of living.

A number of interesting comparisons were laid before the Commission while in British Columbia in regard to the salaries paid to certain officials of the Dominion Government compared with those paid by the Provincial Government, as well as in some cases with the salaries paid by the United States Government to their employees.

At New Westminster the Provincial Insane Asylum and the Dominion Penitentiary are situated side by side. The asylum has about 600 inmates, and the penitentiary about 350. The scale of salaries throughout is greatly in favour of the officials of the asylum. Penitentiary guards, after three months' probation, get \$58.33 a month with no increase even if they remain fifteen or twenty years, and no subsistence. The male attendants in the asylum get \$40 to \$55, together with board and lodging. In the Provincial Gaol at New Westminster the convict guards get \$75 a month while the city police constables commence at \$75, rising in their fourth year to \$90. The warden of the penitentiary stated that he had great difficulty in keeping his men, especially those who had not become entitled to a gratuity. He has also tremendous trouble with guards trafficking with the convicts, which he attributes to the smallness of the salaries.

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Another comparison submitted had reference to the salaries of the Dominion Inspectors of Boilers, who receive \$1,400, rising by irregular increments to \$1,600. Provincial Inspectors of Boilers begin at \$1,620 and rise by regular annual increments of \$80 to \$2,160. While the United States Inspectors who are engaged in the same work as the Dominion Inspectors, and who mutually accept each others' certificates, receive \$2,250. Yet another comparison which was of something more than ordinary interest was that between the conditions of the Lighthouse Service on the Pacific Coast in the United States and British Columbia. It showed the superior consideration given in the former country to the men who fulfil these arduous and responsible duties, to that given in Canada. Both in regard to pay and allowances, leave, number of assistants and other matters, the comparison was in favour of the United States. One case which had just occurred was particularly brought to the notice of the Commission. The lightkeeper at Sand Heads Lightship had not had any holidays for eleven years. If he had applied for any he would have had to pay for a substitute. His salary was \$1,470, but out of that he had to pay an assistant, to whom he gave \$540 and board. The assistant had left him to get a better position, and when he was relieved, he had been alone for a fortnight, unable to leave his ship, and crippled by rheumatism. He was then in a pitiable condition and was walking on all fours.

At several points the Commission had the advantage of a general conference with the leading officers of the various Departments, at which individual and collective views were expressed as to the best means of increasing the efficiency of the Outside Service. There was a very close agreement in regard to most of the questions discussed and the following statement may be valuable as the consensus of opinion of a large majority of the leading officials west of the Province of Manitoba:—

1. That entrance to and promotions in the Service should not be a matter of political patronage, but that the whole Outside Service should be placed under the Civil Service Commission; that promotion therein should be by merit, and that the higher positions should be filled from the Service itself.

2. That the initial pay and allowances for clerks entering the Service in the West should, at the present time, be not less than \$75 a month.

It was pointed out that in the early eighties Dominion officials at Winnipeg received an increase of forty per cent over the salaries paid in the East in order to meet the increased cost of living there. After a while, this was reduced to twenty-five per cent and later done away with altogether. The present method of a specific allowance seemed however to be generally considered satisfactory provided the amount were sufficient and it was granted to all officials from the lowest to the highest. Should the conditions of living in the West return to normal this allowance could be discontinued.

3. That in each case there should be regular annual increments of salary to which the employee should be entitled provided he has given satisfaction. The opinion was expressed by some that the increment should be \$100 a year.

It was pointed out that the practice which now prevails in most Departments, whereby the official has to ask for a rise or get his chief to recommend him, is unsatisfactory. Some chiefs have an objection to recommending anybody for an increase, and in many cases political influence is used to get it.

4. That conditions should be made as uniform as possible in the various Departments as regards pay, allowances, vacation, hours of work, etc.

5. That a system of superannuation should be introduced and would be preferable to the present retirement system.

This undoubtedly was looked upon as the most powerful factor in retaining men in the Service. It was generally agreed that it should be contributory. In regard to the amount of contribution, the feeling of the great majority appeared to be that if the family could be made beneficiaries in case of death, five per cent would be satisfactory. This was the amount proposed in the Bill introduced into the Senate by the Honour-

able L. G. Power. It may be mentioned that at several meetings where all grades and classes of the Civil Service were represented, the principles contained in Senator Power's Bill were in the main considered satisfactory. There was a general agreement that contribution to superannuation should be made compulsory in future; and that there should be a definite age for retirement, which in the opinion of the majority should be voluntary at sixty and compulsory at sixty-five.

6. That examinations for promotion be solely in regard to a man's fitness for the duties of the office.

Some discussion took place at various points on the question of throwing the Outside Service open to competitive examination and as to the likelihood of getting a sufficiency of candidates. There was considerable caution in expressing opinions in regard to this matter, which had evidently not been very much considered. The feeling that local appointments should be made from local people made some hesitate to approve of such a course. On the whole, however, the majority seemed to believe that it was quite feasible and that it would be beneficial to have appointments made in this way.

The endeavour of the Commission in the foregoing remarks has been to give, in as concise a form as possible, the general trend of opinion among the officials of the Outside Service in British Columbia, Alberta and Saskatchewan, as to the best means to be taken to promote efficiency in the Public Service in that rapidly expanding and changing portion of the Dominion. A number of special cases requiring special attention appear in the evidence taken, and will be brought individually to the notice of the heads of the Departments affected.

Speaking generally, the result of their work so far, and of the evidence taken, has been already to indicate to the Commission general conclusions in regard to some of the most important questions affecting the Service. The whole subject, however, is of such a difficult and complex nature and its successful settlement of such vital importance to the future of the Dominion, that they have been impressed with the feeling that an opinion regarding it should be sought from the most eminent authority that could be found. They have observed therefore with great satisfaction that the Right Honourable Sir George Murray, G.C.B., a gentleman of unequalled experience in such matters, has at the instance of the Government, undertaken an inquiry, the scope of which is defined in the Order in Council of 7th October last, and which appears to the Commission to embrace very completely the general questions which have been engaging their attention.

Believing that the information and data which they have compiled would be of considerable value to him, they have placed the whole of it at his disposal. They have done so the more readily as they observed that the period of his stay in this country was limited.

This being the case, and holding the views expressed above, they feel that no useful end could be served by their making recommendations which would necessarily be based to a greater or less extent upon the same data.

In view of the foregoing, the Commission are of the opinion that the requirements of the Order in Council of the 21st December last can be most advantageously carried out, in regard to one phase of their work, by the Departmental Inquiries already alluded to; and in regard to the other, by the general inquiry into the organization and methods of the Public Service which is being conducted by Sir Geo. Murray.

Under these circumstances the Commissioners respectfully request that Your Royal Highness be graciously pleased to relieve them of the duties and responsibilities with which they have been charged by Your Royal Highness' Commission.

All of which is respectfully submitted.

G. N. DUCHARME,
R. S. LAKE,

Commissioners.

Ottawa, 9th November, 1912.

PUBLIC SERVICE COMMISSION

1912

SPECIAL REPORT

ON

LAKE TIMISKAMING DAM CONTRACT

Public Works Department

To His Royal Highness the Governor General in Council:

MAY IT PLEASE YOUR ROYAL HIGHNESS,—

The Public Service Commission appointed on the 27th day of December, 1911, and charged with the duty, amongst other things, of inquiring into 'the construction and maintenance of public works,' and 'the administrative methods and operations of the chief spending Departments,' have the honour to submit for your information this report of an inquiry concerning the construction of a dam at the head of the Long Sault Rapids, Ottawa River, commonly referred to as 'Lake Timiskaming Dam.'

In the autumn of 1904 an examination of the water conditions in the watershed of the Ottawa River was commenced. In 1905, a dam at the foot of Lake Timiskaming was designed and located. At the outset, the object was to reserve part of the flood water of the spring and summer for use during the autumn, for power purposes at the Chaudiere Falls and other places in the Ottawa River.

In 1909 it was decided to so construct the dam that it might more completely restrain the flood water of spring and thus improve the navigation of the narrows in the Ottawa River. The outlet of Lake Timiskaming at the Long Sault Rapids, is divided by an island into two streams, the larger and deeper being on the eastern side. The boundary line between Ontario and Quebec runs midway up and down this stream. The wooden dam was to be built at the upper end of the island, and stretch straight across from the Ontario to the Quebec shore. The design for concrete construction called for two dams, in reality; one on the Ontario side, about midway of the island, and one between the island, near its upper end, and the Quebec side, a trestle and earth-filled embankment across the island connecting the two dams.

In the Session of 1907-8, Parliament voted the sum of \$75,000 for the construction of a wooden dam at the location mentioned. Later it was estimated that the cost of this dam would be \$80,000. Tenders were advertised for and received up to the 19th day of November, 1908. A regular printed form of tender was supplied by the Department and used by the persons tendering. It called for an offer for the construction of the whole work for a bulk sum and it also included a blank item schedule in which prices were to be inserted at which any extra work or materials which might be required were to be charged. Four tenders were received for the following amounts, respectively:—\$76,000, \$93,000, \$115,600, and \$205,955, each accompanied by an accepted cheque for \$8,000.

By report to Council dated November 28th, 1908, the Minister of Public Works recommended the acceptance of the tender of Messrs. Kirby & Stewart, of Ottawa, for \$76,000. This firm had been formed to tender for this express work. This recommendation passed the Privy Council on the 15th day of January, 1909, and was approved by the Governor General on the 18th day of January, 1909.

By report to Council dated 20th day of February, 1909, the Minister recommended that the construction of a wooden dam be abandoned, and that a contract be entered into with Messrs. Kirby & Stewart for the construction of a concrete dam instead, at the unit prices mentioned in the schedule to Messrs. Kirby & Stewart's tender for the wooden dam. The approximate cost of the concrete dam was stated to be \$108,050. This recommendation was approved by the Governor General on the 13th day of March, 1909. A contract with Messrs. Kirby & Stewart was executed on the 22nd day of July, 1909.

On the 11th day of November, 1910, the Minister recommended to Council that concrete work should be continued during the winter following, and that the contrac-

tors should be paid for housing and heating the concrete to preserve it from damage during freezing weather. This recommendation was approved by the Governor General on the 22nd day of December, 1910.

Coffer-damming and unwatering had been provided for in the contract, and was partially performed, but on the 4th day of January, 1911, the Minister recommended, 'that authority be given to pay the contractors over and above the contract price, the actual cost of coffer-damming and unwatering necessary to complete the dam, including removal of said coffer-dam, plus the usual 15 per cent for incidentals, use of tools, office expenses, etc.' This recommendation was made on the ground that, owing to exceptional circumstances, the difficulties of the work had been considerably increased, and that it was considered necessary in the public interests to co-operate with the contractors.

In the spring of 1911 a portion of the coffer-damming thus provided for was destroyed by the spring freshet, and on 5th August, 1911, the Minister reported to Council that it would be advisable that 'the contract should be terminated, the security given by the contractors be returned to them, and the work already performed, materials delivered and plant supplied be paid for, the further work to be proceeded with by day's labour at the sole cost of the government.' This recommendation was approved by the Governor General on 11th August, 1911; and on 5th October, 1911, an agreement was executed by the Deputy Minister of Public Works and the contractors. The security cheque was immediately returned; the plant and materials of the contractors were taken over, valued and paid for; and an examination took place for the purpose of ascertaining what amount was due to the contractors under the terms agreed upon. A disagreement arose as to the precise meaning of these terms. The amount due was, therefore, not decided, and payment of the balance claimed to be due to the contractors has not yet been made.

The dam on the Ontario side of the island was completed in 1910, but the dam on the Quebec side will not be fully completed before the low water season of 1912. The final cost of the structure can only be approximately calculated and the estimate may be falsified by accidents. It is as follows:

1912.	
Jan. 22. Actually paid contractors	\$190,559 82
" " " otherwise	55,713 82
	<hr/>
	\$246,573 64
Mar. 1. Expended under departmental contract	86,000 00
	<hr/>
	\$332,573 64
Cash expenditure to March 1, 1911	\$120,000 00
Estimated cost to complete	45,000 00
" land damage	
	<hr/>
	\$197,573 64
Unadjusted claim by Kirby and Stewart, i.e., difference between their claim for total expenditure (\$334,572.18), and amount of cash already paid them, but not including claim, if any, for future interest	143,712 36
	<hr/>
	\$341,286 00

The foregoing is a brief outline of the more salient facts concerning this matter which have been inquired into and carefully considered by the Commission and upon which they now have the honour to make the following findings:

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AWARDING CONTRACT WITHOUT TENDER.

Tenders for the construction of a concrete dam or in the alternative for a dam which might be of wood or of concrete were not asked for by public advertisement or otherwise. The only tenders asked for, the only tenders received, were for a wooden dam, to be built for a bulk sum. The unit prices mentioned in these tenders were for extra work which might incidentally prove to be necessary. The plans and specifications on which tenderers based their figures did not show that any concrete would be required. In the schedule to the tenders a price for concrete was named, but the three tenderers who have been examined state that the prices for concrete quoted by them respectively, referred to a very small quantity, which might perhaps be necessary in or about the foundation of the wooden dam, and were not such prices as they would have asked for the construction of an entire concrete dam. The Auditor General, on the 28th day of January, 1909, in a letter addressed to the Deputy Minister of Public Works, expressed the opinion that new tenders should be called for if the construction of a concrete dam was to be undertaken. This objection was not referred to the Law Officers of the Crown for consideration, but another objection by the Auditor General based on the same grounds was placed before the Deputy Minister of Justice for an opinion as late as the 19th day of May, 1911. He replied, 'It is, I think, questionable whether section 36 of the Public Works Act should not have been complied with in respect of the altered project, and, therefore, whether in view of the absence of tenders by public advertisement for the execution of the works, the Governor in Council had the power to authorize the contract.'

The Minister of Public Works, on or about the 4th day of February, 1909, overruled the first objection made by the Auditor General on grounds suggested by the Deputy Minister and Assistant Deputy Minister. It was said by them that to call for new tenders would involve undesirable delay. There was in the actual circumstances no sound ground for this argument; there was no pressing emergency in which delay would be injurious to the public interest. When the decision to build the dam of concrete was made, the need of haste had ceased. On the 22nd day of December, 1908, the Assistant Deputy Minister had written to J. R. Booth, Esq., of Ottawa, 'It is an utter impossibility now to have the dam built this winter, and the contractors will not take the risk of commencing the work of construction so late.' The further necessary examination of the location of the dam, absolutely essential for a concrete structure, was not undertaken for more than a month after the Minister's decision, and the plans and specifications were not completely prepared until four months later, nor the contract finally executed until five months later. As late as September, 1909, the Engineer in charge complained that the only plant which the contractors had yet on hand was one derrick, and that only one end of the dam had then been begun. It was suggested by the Assistant Deputy Minister, as a reason for awarding the contract to Kirby & Stewart, that they had made some arrangements for the purchase of timber. But a contract for the dam had in fact been executed, and if by verbal authority from some person in the Department of Public Works, the contractors had been induced to order timber, the cost thereof could have been assumed, if necessary, by the Department, and the timber used in connection with the building of the concrete dam.

WORK INITIATED WITHOUT DUE INVESTIGATION.

In dealing with this whole matter, lack of method and failure to exercise due care are strongly indicated. The project of building a wooden dam was of minor importance compared with the scheme for the larger concrete dam which supplanted it. But the investigation which preceded even the plan for the wooden dam was insufficient, while the contract for a concrete structure was authorized before the exact information

essential for the proper initiation of a work of such magnitude had been obtained. After deciding to build a concrete dam, and after the contract had been authorized, the location of the dam was wholly changed, its design altered, and its cost increased. In a letter dated 29th December, 1910, the contractors say,—‘the work contemplated when the tenders were called for was greatly and entirely changed in character and location.’ The decision as to the location finally decided upon was arrived at before adequate tests of the character of the bottom on the Quelce side had been made; and the change of site, about the wisdom of which there is difference of opinion, was decided on by the Engineer in charge without any supervision or adequate consideration by the Chief Engineer or any other person in the Department of Public Works. The dam on the Quelce side was located on a rapid, where construction was much more difficult than at the head of the rapids, in deeper water and consequently a more dangerous bottom. The construction of the work was allowed to lag over a very long period of time, with a consequent increase of dangers and an ultimate increase of cost, which might not have occurred if the work had been expeditiously done. The Chief Engineer of the Department did not from the outset exercise any supervision over estimates, plans, specifications or work. The Deputy Minister, not being an engineer or familiar with works of this kind, left the control of the matter, so far as the Department was concerned, in the hands of the Assistant Deputy Minister, who consulted from time to time with the Minister, the Deputy Minister and with the Engineer in charge, but who himself had no intimate knowledge of the work which was being done.

NO SPECIFICATIONS FOR UNWATERING.

In the tenders for a wooden dam, the amounts asked for unwatering (which includes coffer-damming and pumping) were \$1,000, \$15,000, \$20,000 and \$54,994. So great a divergency should have indicated to the Department that the tenderers held very different opinions as to the difficulty and methods of unwatering the site chosen for the dam. Thereupon the Department should have decided what methods would be advisable, and should have specified its requirements, especially as the Department itself would need to know the probable cost, in order that the reasonableness or otherwise of tenders could be decided on. Such a precaution became essential to sound judgment when it was decided to construct a concrete dam, which required to be kept dry while the concrete was setting; and, besides, the changed site chosen for the concrete dam very greatly increased the difficulty and cost of unwatering. It is cogent evidence of the importance of such precautions that the unwatering which Kirby & Stewart contracted to do for \$1,000, has actually cost to date about \$135,000, and may cost much more. The truth is, however, that from the time the wooden dam was designed to the time when the contract work was abandoned, no scheme of unwatering was devised by the engineers of the Department, or its requirements stated. If the question had been studied at the outset, the difficulties recognized, and a proper scheme specified, other contractors than Kirby & Stewart might have undertaken the whole work, or a contract might have been entered into with Kirby & Stewart which would not have been violated and finally cancelled before the dam was completed. It is quite possible that a proper study of the unwatering question and the adoption of proper methods would have led to the completion of the dam long before this.

It should be said concerning the engineer in charge of the work for the Department, that when he accepted the position the contract had already been awarded to Messrs. Kirby & Stewart, and the sum of \$4,000 for unwatering had been expressly included in the contract, so that when he came to make an estimate, in June, 1900, of what the dam would probably cost in its new location, he merely included as the cost of unwatering the fixed sum of \$4,000; and if at that time the thought of its insufficiency occurred to him, he may have disposed of it on the ground that the question was no longer open for consideration, but the Commission are of the opinion that he

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should have pointed out to the Department the inadequacy of the amount for unwatering to be included in the proposed contract. Excuses of this kind cannot, however, be offered for the other Engineers in the Department, who had to deal with the earlier stages of the matter. It is a fact which is worth noting, that the amount asked for by Kirby & Stewart for unwatering was precisely the amount allowed for that purpose by the Engineer who prepared for the Chief Engineer an estimate of the cost of a wooden dam. If this were a coincidence, it is a strange one.

COST OF UNWATERING ASSUMED BY GOVERNMENT.

It has already been mentioned that the contractors agreed to accept \$1,000 for the 'unwatering' necessary in the course of constructing the concrete dam. The amount was absurdly inadequate, but largely through its inadequacy Kirby & Stewart had been the lowest tenderer for the wooden dam, and mainly through this inadequacy also it had been made to appear as though they were the lowest tenderers for the concrete dam. Before executing the contract for the concrete dam, after abundant time for examining the location had elapsed, Kirby & Stewart were specially notified in writing that they would not be allowed more than their bid for the unwatering, and they signed the contract, therefore, with full knowledge or means of knowledge of the risk they ran, that the sum for unwatering would prove insufficient. They unwatered the Ontario side, and commenced a coffer-dam on the island end of the dam on the Quebec side. On the 4th day of January, 1911, the Minister reported to Council that 'authority should be given to pay to the contractors over and above the contract price the actual cost of coffer-damming and unwatering necessary to complete the dam across the Quebec channel, including removal of the said coffer-damming, plus the usual 15 per cent for incidentals, use of tools, office expenses, etc.' This report was approved by Council on the 24th day of January, 1911. By this time the coffer-dam was completed, and unwatering was proceeded with throughout the winter. In May the freshet swept away that portion of the coffer-dam which was built in January. The contractors' claim under the Order in Council amounts to \$61,430.38; of this they have received \$18,000.

The reasons alleged by the Minister for his report were briefly these, that radical alterations in location and design of the dam had taken place, and also that the whole sum asked by the contractors for unwatering had already been expended on the Ontario side. But as a fact, the alterations referred to had been made prior to the execution of the contract, and after the special notice referred to above had been given to the contractors. The real reasons for the Minister's report were not disclosed therein. The evidence shows that in December, 1910, the contractors interviewed the Minister, claiming an allowance for excavation. This claim was disapproved by the Engineer in charge, but it was suggested that an allowance might be made for unwatering, and the Engineer was asked to prepare a report recommending such an allowance. A discussion took place between the Assistant Deputy Minister and the Engineer on the one side, and the contractors, with their counsel, Mr. McGiverin, M.P., on the other. The Engineer was impressed, he says, with the idea that the contractors were financially unable to proceed with the work unless some extra allowance were made; and consequently he made a report in which the arguments appear that were later the basis of the Minister's recommendation to Council.

Upon the receipt of an application from the Department of Public Works for an amount to pay the contractors under the provisions of the Order-in-Council last referred to, the Auditor General objected that there was 'No record in the Audit Office of any previous case of the kind where an Order in Council amended a contract in the way of giving increased remuneration to a contractor.' This objection was referred to the Deputy Minister of Justice for an opinion, and he replied that if the original contract for the concrete dam had not been illegally given (by reason of the

omission to advertise for tender) the increased payment provided for by the Order-in-Council dated the 24th day of January, 1911, was probably within the power of the Governor-in-Council, provided it was advisable or required in the public interest. This opinion implies that if the original contract was illegally given (which is strongly suggested), the Order-in-Council last referred to was also illegal.

ASSUMPTION OF WHOLE WORK BY GOVERNMENT.

In the beginning of May, 1911, that portion of the coffer-dam which the conditions of the Order-in-Council last mentioned applied to was almost wholly swept away by a freshet. In June the contractors asked that the Department assume the completion of the work and 'pay for the work completed to date.' Mr. Chrysler, K.C., Counsel for the contractors, interviewed the Minister concerning the matter. After consultation between the Minister and the Deputy and Assistant Deputy Minister, it was decided to take over the work, as requested, and the Assistant Deputy Minister was instructed to state in writing the reasons for this decision. His report, after discussion, was also signed by the Engineer in charge. They recommended that 'the work be paid for at contract rates.' A draft report for the Minister to send to Council recommending settlement on this basis was prepared by the Assistant Deputy Minister. On the 18th day of July, 1911, the contractors were notified of the recommendation the Minister intended to make, and they were asked if they concurred in the terms proposed. The contractors personally, or by their counsel, discussed the matter with the Minister. They objected to payment at contract prices, and demanded payment of their actual expenditure. The Minister struck out of the draft the words 'that the work already executed be paid for at contract prices,' and substituted in place thereof the words, 'that the work already executed which may be considered as absolutely necessary be paid for at its actual cost'. By this change the Government would, in effect, assume a loss of about \$100,000 which the contractors had incurred. No calculation of the amount of loss, nor any inquiry as to the real causes of the loss, appears to have been made at this time. But the amount was known to be large. In August, 1910, the contractors alleged that they had up to that time made a loss of \$57,883 in excavation alone. It was known, too, that the loss had been incurred very largely through delay, neglect and inexperience by the contractors or for which they were liable. The contract prices, except for unwatering, were not on the whole unduly low; for concrete they were not even the lowest quoted in the tenders for a wooden dam. Neither the Assistant Deputy Minister nor the Engineer in charge recommended that on the ground of merit or equity, or any other ground, the Government could assume liability for more than contract prices, and the responsibility for this assumption rests actually, as well as theoretically, solely on the Minister. At the moment of signing the recommendation which was sent to Council, the Minister inserted in his own handwriting the words 'and reasonable' between the word 'actual' and the word 'cost'. On the 5th day of August, 1911, the Minister reported to Council; the report was adopted on the 10th, and approved on the 11th. No mention was specifically made in the report that the contractors' loss had been assumed, nor does the report contain any language which would draw to the attention of Council the real and full significance of the recommendation.

On the 5th day of October, 1911, the Minister personally directed the Deputy Minister, in pursuance of the Order-in-Council dated the 11th day of August, 1911, to execute an agreement which had been drafted in the office of Messrs. Chrysler, Bethune & Larmonth, of Ottawa, acting for the contractors. The Law Clerk of the Department testifies that he was not told to examine the draft, but merely to copy it for signature; the Deputy Minister does not concur in this. A punctuation appears in the agreement which was not in the Order-in-Council, and the difference may be material. The Order-in-Council says 'that the work already executed which may be

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considered as absolutely necessary shall be paid for at its actual and reasonable cost.' By the use of two commas, this provision appears as follows in the agreement, 'that the work already executed, which may be considered as absolutely necessary, shall be paid for at its actual and reasonable cost.' By this punctuation a condition may have been changed into an assertion; what was a proviso in the Order-in-Council intended to lead to an investigation as to what work was really necessary may in the agreement amount to a declaration that all the work actually done shall be incontestably assumed to have been necessary. That such a change should have been made in such a manner is at least startling proof of the need of changed methods in the Department. A dispute has already arisen in relation to the language used both in the Order-in-Council and subsequent agreement, as to the meaning of the words 'actual and reasonable cost.' Actual cost may not be reasonable. In such a case are contractors to be paid, not the actual but the reasonable? If so, why was the word 'actual' used? What tribunal is to decide what is actual and reasonable, or if there be a difference between these two, decide what is reasonable?

IMPORTANT LEGAL QUESTIONS.

Very important legal questions arise out of the additional payment to the contractors for the coffer-damming and unwatering done in the winter of 1911, and the assumption when the contract was cancelled of the loss the contractors had previously incurred. Both instances may be referred to as being in their essence violations of the express contract which had been entered into with all due solemnity; in one case, the contractors were promised while the work was in progress a much larger price for the work done and to be done than they had deliberately agreed to accept; in the other case, the contractors were promised an amount not only in excess of the contract price, but for work which had already been fully performed.

Section 36 of the Public Works Act provides that if any works are to be executed under the direction of any Department, the Minister shall invite tenders by public advertisement, unless (amongst other exceptions) it can be more expeditiously and economically executed by the officers and servants of the Department. No evidence was given establishing this exception in the coffer-damming and unwatering instance; no assertion was made in the Order that it proceeded on this ground. Surely if the law requiring tenders is to be set aside on the plea of an exception, the existence of exceptional circumstances must be shown, and the Order-in-Council should contain reference thereto.

With relation to the arrangement made in August, 1911, this question arises,—Has the Council power, not merely to cancel a contract, but to enter into an agreement to make good to contractors a loss they have already sustained? Parliament had not voted money for this purpose; and the agreement was not expressed to be subject to the approval of Parliament. No emergency existed which warranted this agreement, and it cannot be successfully defended either on the ground of equity or necessity. What legal consideration flowed from Kirby & Stewart to the Government for the agreement by the latter to pay a larger sum than the existing contract called for, for work already completed? Time had been the essence of that contract; the last extended time had expired; the contractors were in default; they had perhaps lost all rights under the contract.

In the opinion given by him on the 6th day of July, 1911, the Deputy Minister of Justice expresses the view that if Section 36 of the Public Works Act was not violated, by awarding a contract to Kirby & Stewart for the construction of a concrete dam without obtaining tenders, or payment to the contractors in excess of the amount contracted for, although for the same work, could legally be made by Order-in-Council under certain circumstances. Such a power would easily be capable of abuse. It opens the door very wide to evasions of the law and invites the practice of using

tenders as a mere cover for awarding contracts to favourites. Nothing could be easier than to give contracts at very low prices, to cut out bona fide tenders, and then by Order-in-Council award sums in excess of those contracted for. The practice of relieving contractors, who have taken contracts at too low a figure, from loss on their contracts is to be entirely deprecated. Security for the due execution of a contract is usually made by the contractors by a deposit of 10 per cent in the estimated cost of the work. No instance of the forfeiture of this deposit for non-fulfilment of contract could be recalled by the Deputy Minister or other witnesses within the last fifteen years. On the other hand, other instances were mentioned where the Government had taken the work off contractors' hands, thus saving them from possible loss on their contracts. Such practices generally applied would render the system of competitive tenders a farce, and all contracts one-sided. Inasmuch as in the cofferdamming and unwatering instance, some unwatering work remained to be done by the contractors after the agreement to pay them an amount extra to the contract price, it does not follow that the opinion of the Deputy Minister of Justice about this payment would apply to the August, 1911, arrangement, when the extra payment promised was for work already fully performed.

INEXACT REPORTS TO COUNCIL.

It is, of course, impossible for the Commission to ascertain to what extent the reports of the Minister to Council were supplemented by statements made by the Minister in the Council, but upon the assumption that Council would not ordinarily know from time to time anything more about the matter than was revealed by the various written reports of the Minister on the subject, the Commission are of the opinion that Council never was at any time in a position to realize the circumstances surrounding this work, but that on the contrary, the reports to Council, by inaccurate expression and omission would have a tendency to misinform and mislead the Council as to the real situation of affairs. By way of illustration—attention is particularly drawn to the following matters in the reports to Council,—

In the report dated the 20th day of February, 1909, it was said that "the amount of the various tenders for the construction of the dam of concrete would be as follows: * * * Messrs. Kirby & Stewart still remaining the lowest tenderers on the altered conditions." This would naturally suggest to Council that the tenders received had been in alternative, for wood and also for concrete, and it also directly states that Messrs Kirby & Stewart were tenderers on the altered conditions, whereas, in fact, the tenderers had not contemplated a concrete dam, and were never asked to tender for such a dam. It will be seen by examination of other reports to Council that this particular misrepresentation was continued from time to time. It was never mentioned to Council in writing that the Auditor General had objected in 1909, and again in 1911, to the legality of the Orders-in-Council; nor that the Deputy Minister of Justice had, by his opinion dated the 6th day of July, 1911, impliedly supported the Auditor General's objection. In the report to Council dated the 11th day of November, 1910, it is said that the work of housing and heating was not provided for in the contract, and that an additional allowance to the contractors was recommended; whereas, it will be seen, by reference to the specifications attached to the contract, that housing and heating had been expressly provided for, and it is a fact that heating was done during the winter of 1910 at the expense of the contractors, without any claim having been made by the contractors for any extra allowance. The report should have stated that it was deemed desirable to alter the method of housing and heating provided for in the contract. This would have caused inquiry, perhaps, as to relative cost, and Council might not have agreed to assume the whole cost. In the report to Council dated the 14th day of January, 1911, mention is made that after authority had been given by Council to change from wood to concrete, it was found

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necessary to change the site of the dam, and also considerably change the lines of the original plans, increasing the cost of coffer-damming and unwatering. It was recommended, therefore, that the contractors should be relieved of the work of coffer-damming and unwatering the Quebec Channel, and that the cost should be undertaken by the Government, but no mention whatever was made of the fact that the changes referred to had been all decided upon prior to the execution of the contract by Messrs. Kirby & Stewart, and that the contractors had been notified before they signed the contract that the Department would hold them strictly to the sum which had been agreed upon as the cost of unwatering. The Council could not from the reports know anything whatever of this fact, the knowledge of which was essential to a proper consideration of the recommendation before Council. Furthermore, in this report it is stated that 'the Engineer reports that the contractors have so far executed their work in a first class manner; they have shown goodwill to meet the changed conditions,' language which was broadly commendatory of the manner in which the contractors had performed their contract. The fact was, however, that the contractors had not personally superintended the work, had employed incompetent foremen, and had been guilty of great delay. The Engineer in charge frequently complained to the Department, and in February, 1911, was so strong in his protest that the Deputy Minister was moved to send the following letter:—

28th Feby., 1911.

Gentlemen,—

The attention of the Minister has recently been called to the very unsatisfactory manner in which you have been attending, or rather, not attending to the execution of your work under contract with this Department at Temiscamingue notwithstanding the steps taken by the Department to assist you, and I am directed by the Minister to request an immediate explanation of your negligence in this connection, and to insist on steps being taken by you forthwith to have a member of your firm who would be responsible personally on the ground to direct this work. The Department will otherwise be forced to take some summary action in the matter as it is absolutely impossible to allow the present condition of affairs to go on any longer.

Yours truly,

Deputy Minister.

Messrs. Kirby & Stewart,
Contractors,
Elgin Street,
Ottawa, Ont.

Attention is called elsewhere in this report, with regard to the Minister's recommendation to Council dated 5th day of August, 1911, and approved on the 11th day of the same month and year, that mention was omitted altogether of the fact that very serious loss had been incurred by the contractors, and that the Government was being asked to assume that loss.

The Commission have ascertained that the practice of the Department is, that the Secretary prepares drafts of reports to be made by the Minister, from the files of correspondence concerning the matters to be reported on, and from verbal information given by the Minister or the Deputy Minister. These draft reports are submitted to the Deputy Minister, examined and criticised by him, and such corrections as he indicates are made before the reports are submitted for the Minister's signature. The Deputy Minister, on examination before the Commission, did not seem to be willing to accept that degree of responsibility for the draft reports to Council which the Commission think incumbent upon him. While it is the duty of the Secretary to prepare draft reports, to the best of his knowledge and ability, responsibility for

the final form of the report lies with the Deputy Minister, and if he is unable to examine draft reports as carefully as their importance demands, the practice of the Department regarding them should be so revised as to provide efficient criticism, for it is in the highest degree desirable that reports to Council shall be accurately and fully expressed, so that they shall place before Council, by inclusion or reference, all the information which is necessary to correct judgment. If a draft report contains a reference to a question of law, the draft should be revised by the proper law officer; if it contains a reference to engineering matters, it should be examined by the Chief Engineer or one of his staff, so that statements and opinions made on technical matters shall be upon the responsibility of the proper technical officers.

DEPARTMENTAL IRREGULARITIES.

The Commission desire to draw special attention to the evidence given in this inquiry proving habitual breach of statutory provisions; to the persistent disregard of the authority of the Privy Council, and to continuous failure to keep the Council promptly and adequately informed of facts relating to public works. In November, 1908, two months in advance of any approval by the Council, Kirby & Stewart were informed that they would be awarded the contract for the wooden dam, and were so told in order that they might incur obligations, which were later referred to as an argument supporting a breach of law regarding tenders. In June, 1909, Kirby & Stewart were permitted to begin actual work before the contract was signed, an express violation of Section 17 of the Public Works Act. The Deputy Minister admits that in this particular the law is often violated. Because in March, 1909, the Council had authorized a work estimated to cost \$108,950, the Department, four months later, after a complete change of location for the dam had been decided on, entered into a contract involving a cost which the Department then estimated would be \$176,090. In August, 1911, the Department having decided to cancel the contract with Kirby & Stewart, authorized the Engineer in charge for the Department to commence work on behalf of the Government in advance of any authority of Council. No authority was given by Council at any time for entering into the agreement with Kirby & Stewart which was executed by the Deputy Minister on the 5th day of October, 1911, after the Government had been defeated and was about to vacate office. Emergencies may arise when action must be taken in reliance on the endorsement of Council, but too great liberty in this respect may easily degenerate into license. If the Council is a body too unwieldy for the prompt action desirable in many cases, the Treasury Board or some other Committee of Council might, perhaps, have power delegated to it to act in such instances as Ministers might bring before it.

After plans and specifications had been completed, and an estimate of the cost made in the month of June, 1909, no mention of the matter was made in writing to Council, or authority taken for the radical changes which had been decided on. In fact, the contract actually executed on the 22nd day of July, 1909, states that the estimated cost of the concrete dam was \$108,950, the amount mentioned in the Order-in-Council dated the 20th day of February, 1909, whereas at the time the contract was executed, the Department of Public Works for more than a month had been in possession of an estimate by the Engineer in charge that the structure as then designed would cost \$176,810. Not until the 4th day of January, 1911, was Council informed that this increased cost would be incurred, and then merely incidentally to a recommendation that an extra allowance be made to the contractors.

INADEQUATE STAFF IN DEPARTMENT.

From the facts already mentioned, and from a variety of others which are set out in the evidence taken before them, the Commission are of opinion that the staff of the Department of Public Works is inadequate in many respects for the work to be

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performed. Having regard to the importance of the contracts which are being entered into from time to time, the law officers who frame the contracts of the Department ought to be men of pronounced ability, with large experience in the practice of the profession in commercial life, and especially with training in relation to the making and interpretation of contracts. The Department now refers to the Department of Justice those legal questions which seem of serious moment, but that involves great and unavoidable delay, and there is much legal work to be done in the Department from time to time with which its own law officers should be qualified to cope if the system of departmental law officers is to be maintained. Having regard to the very important and very rapidly growing amount of work which has to be performed, the permanent engineering staff should be much strengthened. The plans of the engineers in charge of work should be carefully revised and thoughtfully considered by a board or committee of experienced and able engineers. Under existing circumstances the chief engineer is not able to pay that close and particular attention to many matters, for which he is nominally responsible, and which the importance of these matters demands in the public's interest. Not only should proposed works be thoughtfully considered before obligations are incurred, but the progress of works from time to time should be inspected by competent engineers, not personally responsible for or in charge of the works, and who would bring to the work of inspection a freedom from personal responsibility which would allow them to give unprejudiced opinions. The Deputy Minister has too much work to permit him to pay close attention to details, and instances have already been cited in which the result has been unsatisfactory in consequence. True economy will be served by providing a staff thoroughly adequate in size and quality for the important duties which are being constantly performed by the Department of Public Works.

A report of the oral evidence given before us, and copies of such extracts from the documents examined by us as appear to be material, are appended as Exhibits to this report.

All of which is respectfully submitted,

ALFRED B. MORINE,
Chairman.

G. N. DUCHARME,
R. S. LAKE,
Commissioners.

OTTAWA, 2nd April, 1912.

EXHIBIT 1.

(Copies of Reports to Council re Lake Timiskaming Dam Contract.)

DEPARTMENT OF PUBLIC WORKS OF CANADA,

P.C. 2631.

OTTAWA, November 28, 1908.

To His Excellency the Governor General in Council:

The undersigned has the honour to report:

That in answer to public advertisement the following tenders have been received for the construction of dam, bulkheads and slides at Head of Long Sault Rapids, Ottawa River, viz.:—

1. T. Sidney Kirby, R. Gordon Stewart..	\$ 76,000
2. Edward Conroy, David E. Conroy..	98,000
3. Edward J. Rainboth..	115,609
4. J. Lumsden..	265,953

That the lowest tender is accompanied by an accepted bank cheque for \$3,000 as a guarantee for the execution of the contract;

That the Chief Engineer estimates the cost of the work at \$80,000;

That Parliament at its last session, voted the sum of \$75,000 in connection with the above mentioned work, leaving a balance of \$1,000 unprovided for to which should be added, for superintendence and contingencies, 10 per cent of the contract price, or in all, say \$3,000.

The undersigned has, therefore, the honour to recommend that authority be given to accept the tender of T. Sidney Kirby and R. Gordon Stewart, of Ottawa, at \$76,000, for the construction of dam, bulkheads and slide at Head of Long Sault Rapids, Ottawa river, and that Parliament be asked to provide the amount required to carry the work to completion, viz.: \$3,000.

Respectfully submitted,

WILLIAM PUGSLEY,

Minister of Public Works.

P.C. 374.

DEPARTMENT OF PUBLIC WORKS OF CANADA,

OTTAWA, February 20, 1909.

To His Excellency the Governor General in Council:

The undersigned has the honour to report:

That an Order in Council was passed on January 18 last authorizing the acceptance of the tender of Messrs. Kirby & Stewart, the lowest of four received, for the

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construction of a timber dam, bulkheads and slides at the Head of Long Sault Rapids in the Ottawa River, for a bulk sum of \$76,000.

That action, however, has not been taken on this authorization, it being decided upon further consideration and fuller examination into the matter, that in view of the importance of the work, this being the key dam of the scheme for the conservation of the waters of the Upper Ottawa River, it would be preferable to have it constructed of concrete, in order to give it a permanent character and reduce the cost of annual maintenance. Moreover, a great factor in the cost of concrete in the case of dams is the cost of cofferdamming required, which in difficult locations may raise the price of concrete to much higher figures than those given. Cofferdamming will be required at Temiscamingue and unforeseen difficulties in unwatering may be encountered;

That the tenders above mentioned, in addition to a bulk sum price, give a unit price for each class of material, including cement, and applying these prices to the approximate quantities of material in the work, as determined by the Engineer, the amount of the various tenders for the construction of the dam of concrete would be as follows:—

1. Kirby & Stewart—approximately	\$108,050
2. E. & D. E. Conroy—approximately	137,500
3. E. J. Rainboth—approximately	145,000
4. J. Lumsden—approximately	165,000

Messrs. Kirby & Stewart still remaining the lowest tenderers on the altered conditions; That attached is the schedule of itemized prices of Messrs. Kirby & Stewart's tender, which prices are considered fair and reasonable.

The undersigned, in view of the foregoing, has the honour to recommend that the Order in Council of the 18th January, above mentioned, be annulled and that authority be given, instead, to enter into contract with Messrs. Kirby & Stewart for the construction of a concrete dam, bulkheads and slides at the Head of Long Sault Rapids, in the Ottawa River, at the unit prices mentioned in the attached schedule, or an approximate total sum of \$108,050, and that Parliament be asked to provide the further amount required to carry the work to completion.

Respectfully submitted,

WILLIAM PUGSLEY,

Minister of Public Works.

SCHEDULE of prices quoted in Messrs. Kirby & Stewart's tender for construction of dam, bulkheads and slides at head of Long Sault, Ottawa River,—

Item.	Description.	Measure.	Rate.
1.	British Columbia Fir 12 in x 12 in. in place	Cub. ft.	0.64
2.	" " 14 in x 14 in. "	"	0.64
3.	" " 6 in x 12 in. "	"	0.64
4.	White Pine. 12 in x 12 in. "	"	0.64
5.	" " 14 in x 14 in. "	"	0.64
6.	" " 3 in x 12 in. "	Ft. B.M.	0.04
7.	" " 4 in x 12 in. "	"	0.04
8.	Mixed Timber (squared) in crib	Cub. ft.	0.50
9.	" (flatted) "	Lin. ft.	0.15
10.	Iron (Swede or Lowmoor) in drift bolts	Lb.	0.06
11.	" " in screw bolts	"	0.06
12.	" " in straps, etc.	"	0.04
13.	Forged or cut spikes in place	"	0.04
14.	Cast Iron Washers and Separators in place	"	0.06
15.	Anchor Bolts (Swede or Lowmoor Iron), in place	"	0.06
16.	2 inch Iron Rods " "	"	0.06
17.	Proof Chain for Winches, in place	"	0.06
18.	Wrought Iron for Winches " "	"	0.06
19.	25 lbs. Steel Rails for Winches, in place	Ton.	\$40 00
20.	Common Excavation	Cub. yd.	0.30
21.	Rock	"	1.50
22.	Boulder	"	0.75
23.	Stone filling in Crib and Talus	"	0.75
24.	Concrete, 1, 3 and 5 in foundation	"	8.50
25.	Unwatering	Bulk sum.	\$4,000 00

P.C. 2287.

DEPARTMENT OF PUBLIC WORKS OF CANADA,
OTTAWA, November 11, 1910.

To His Excellency the Governor General in Council:

The undersigned has the honour to report:—

That under authority of an Order in Council, dated 18th January, 1909, a contract was awarded to Messrs. Kirby & Stewart for the construction of a dam, bulkheads and slide at the Head of Long Sault Rapids, in the Ottawa River, for the sum of \$76 000;

That the Ottawa River, at the site of the dam, is divided into two channels by an island. The dam across the channel on the Ontario side is now practically completed, and the coffer-dam for a section of the dam across the Quebec channel is nearing completion, and it is expected that it will be ready for the concrete work in a few weeks's time;

That, under ordinary conditions, concrete work is generally discontinued during winter months, but, in this case, it is of the utmost importance that the work be prosecuted uninterruptedly in order that it may be completed in time to remove the coffer-dam before the spring freshets, and prevent all possibility of higher floods than usual which would probably occur in the spring should any obstruction to the free flow of water be left in the bed of the river;

That the carrying on of the concrete work during the winter will necessitate the housing of the section of the dam to be built and the installation of a heating system to prevent the fresh-laid concrete from being damaged during freezing weather;

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That this further work is not provided for in the contract and its estimated cost is placed at from \$4,000 to \$5,000, depending upon the severity of winter conditions.

The undersigned, in view of the foregoing, has the honour to recommend that authority be given to enter into an agreement with Messrs. Kirby & Stewart,—the contractors for the construction of the dam,—for the housing and heating of that portion of the concrete work to be constructed during the winter months, and to pay to them the actual cost of labour and materials necessary for the said housing and heating plus 15 per cent for incidentals, use of tools, office expenses, etc., upon the production of certified vouchers supported by a sworn declaration.

Respectfully submitted,

WILLIAM PUGSLEY,

Minister of Public Works.

P.C. 51.

DEPARTMENT OF PUBLIC WORKS OF CANADA.

OTTAWA, January 4, 1911.

His Excellency the Governor General in Council:

The undersigned has the honour to report:—

That, in January, 1909, an Order in Council was passed accepting the tender of Messrs. Kirby & Stewart to construct a wooden dam on the Ottawa river at the foot of Lake Temiscaming, their tender being the lowest of four received;

That, in March, 1909, a subsequent Order in Council was passed annulling the former and authorizing a change from wooden to concrete structure on the unit price system, for the different classes of materials, as per unit prices submitted in the original tender, Messrs. Kirby & Stewart still remaining the lowest tenderers, under altered conditions;

That the tenders were figured on the basis of quantities supplied by the engineer-in-charge at the time, the quantities being stated to be only approximate, on account of the uncertain nature of the foundations for that part of the site of the dam covered by water;

That, in applying the unit prices to the approximate quantities of excavation and materials in the work, as determined by the engineer, the various tenders were figured as follows, substituting concrete for wood:—

1. Kirby & Stewart—approximately.	\$108,050
2. E. & D. E. Conroy—approximately.	137,500
3. E. J. Rainboth—approximately.	145,000
4. J. Lumsden—approximately.	165,000;

That, shortly after this, it was decided to form a special Bureau to continue the study of the Ottawa River Storage as well as to take charge of the construction work, and the new Engineer-in-Charge, in preparing detailed plans for the concrete dam, after authority had been given by the second Order in Council to change from wood to concrete, found it necessary to change the site of the dam and alter considerably the lines of the original plans, after further investigations of the bottom of the river which showed that solid rock where indicated on original plans did not exist—closely packed surface boulders under the water having evidently been mistaken for solid rock—and conditions generally not so favourable for safe foundations as expected;

That the dam, under these conditions, required a deep cut-off wall and wide aprons on both the up-stream and down-stream sides, to guard against all chances of undermining, necessitating much deeper and more extensive excavations than anticipated, requiring more plant to carry on the work and increasing considerably the cost of cofferdamming and unwatering, as compared with the work and expenditure which would have been necessary in connection with said cofferdamming and unwatering, under the original plans forming the basis of the tenders submitted;

That so far, about 50,000 cubic yards of material have been removed to secure safe foundations, and the Engineer estimates that 10,000 cubic yards more remain to be excavated in the deepest part of the channel, making a total of 60,000 cubic yards, as compared with 5,730 cubic yards given in the first estimate, in connection with original plans; the concrete also being increased from 9,700 cubic yards to about 13,000 cubic yards;

That the tenders received, based on the amended quantities and unit prices submitted, are now revised as follows:

1. Kirby and Stewart, approximately	\$176,840 00
2. E. J. Rainboth, approximately	300,850 00
3. E. and D. E. Conroy, approximately	301,140 00
4. J. Lumsden, approximately	252,279 00

showing that Messrs. Kirby and Stewart are still considerably lower in price than the other tenderers;

That the Engineer reports that the contractors have so far executed their work in a first-class manner and have shown good will to meet the changed conditions, though obliged to secure a more expensive plant to carry on the altered work properly;

That the Engineer-in-Charge reports also that the amount of \$4,000 bid by the contractors for unwatering has been all expended in the Ontario channel, and the most extensive and difficult part of the cofferdamming and unwatering, estimated to cost about \$20,500, yet remains to be performed to complete the dam across the Quebec channel;

That, owing to an exceptional autumn rise of the water, the difficulties met with by the contractors have been considerably increased, and the work has reached such a critical stage that it is considered necessary, and in the public interest, to co-operate with the contractors in order to rush the work to completion and prevent all possible delays and thus derive the benefits of the reserve water at least one season earlier;

That the contractors claim that though they agreed to execute the work in accordance with the amended plans substituting concrete for wood, the change of site, the change in the section of the dam, the altered conditions in the foundations, have been so much greater than contemplated and expected, that they are entitled to consideration on account of the increased cost, due to these radical changes and alterations from the original plans, which formed the basis of their original tender.

The undersigned, in view of the foregoing, and after careful consideration of all the circumstances affecting the contract, is of opinion that the contractors have a just claim, and are entitled to consideration on account of the greater amount of cofferdamming and unwatering required, involving a larger expenditure, as above mentioned, and recommends that authority be given to pay to the contractors over and above the contract prices the actual cost of cofferdamming and unwatering necessary to complete the dam across the Quebec channel, including removal of said cofferdamming, plus the usual 15 per cent for incidentals, use of tools, office expenses, etc., upon the production of certified vouchers supported by a sworn declaration.

The undersigned also recommends, in order to attain the object in view, that the Order in Council of 22nd December, authorizing an extra expenditure of \$4,000 to \$5,000 for housing and heating the first section of the dam across the Quebec channel in order to lay concrete without interruption during the winter, be amended, and that

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authority be given to enter into an agreement with Messrs. Kirby & Stewart to arrange to continue concrete work during the winter, for the whole length of the dam across the Quebec channel, at a total cost of \$8,000 to \$10,000 on the terms already approved for the section above mentioned, viz.; actual cost of labour and materials necessary for the said housing and heating, plus 15 per cent for incidentals, use of tools, office expenses, etc., upon the production of certified vouchers supported by a sworn declaration.

Respectfully submitted,

WILLIAM PUGSLEY,

Minister of Public Works.

P.C. 1847.

DEPARTMENT OF PUBLIC WORKS OF CANADA.

OTTAWA, August 5, 1911.

To His Excellency the Governor General in Council:

The undersigned has the honour to report:—

That under authority of an Order in Council dated 18th January, 1909, a contract was awarded to Messrs. Kirby & Stewart, for the construction of a wooden dam on the Ottawa River, at the foot of Lake Temiscamingue;

That, on 13th March, 1909, a subsequent Order in Council was passed authorizing the change from a wooden to a concrete structure, which necessitated considerable alterations in the plans and location of the work, and on account of these changes, and unexpected difficulties met with in the cofferdamming and unwatering necessary to build the concrete dam, on the Quebec side of the river, authority was obtained from Council, on 24th January, 1911, to pay the contractors, over and above their contract prices, the actual cost of cofferdamming and unwatering required, plus the usual 15 per cent for tools, profit, office expenses, contingencies;

That the attempt to build the concrete dam before the spring high water of 1911 has failed. The cofferdam was only laid dry after several months of effort to make it water-tight, on account of the unfavourable nature of the bottom. Work for only a few days was possible in the pit before the cofferdam was overtopped and part of it carried away;

That the small amount of excavation done in the bed of the river for the foundations of the concrete dam, before the cofferdam failed, showed the boulder material to be underlaid by water-bearing sand, and the Engineer in Charge and Assistant Deputy Minister of Public Works are, therefore, of the opinion that close sheet piling extending below the concrete cut off wall of the dam will be advisable as an additional factor of safety. They further recommend, in view of the difficulty experienced this season in passing the four million saw-logs that annually descend Temiskaming lake, that the design of the dam be changed so as to provide larger openings giving a thicker and longer apron for the Quebec sluiceways;

That Messrs. Kirby & Stewart have presented that it would be exceedingly difficult to continue the work under the present circumstances, owing to conditions entirely beyond their control. The close-sheet piling proposed in the foundations, they state, would largely increase their risks, by lengthening the period of difficult work to be done inside the cofferdam. The necessity for this sheet piling was not anticipated, and the work is not, of course, provided for in the contract;

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That the Engineer in Charge and Assistant Deputy Minister report that, under the circumstances, it would be advisable, and in the public interest, not to proceed further with the construction of the dam as contracted for, and that the contract should be terminated at the present stage; the security cheque of eight thousand dollars (\$8,000) deposited in connection with same to be returned to the contractors, and work already performed, materials delivered and plant supplied, to be paid for. The reconstruction of the cofferdam, erection of the concrete dam with modified openings for the passage of logs and sheet piling to be proceeded with by day's labour;

The undersigned, concurring in the views of his officers above mentioned, has the honour to recommend that the contract with Messrs. Kirby & Stewart, for the construction of a dam on the Ottawa river, at the foot of Lake Temiscaming, be cancelled, and that the security cheque of \$8,000 deposited in connection with same, be released, also that the work already executed which may be considered as absolutely necessary be paid for at its actual and reasonable cost, payment for cofferdam and unwatering to be made as per terms fixed by Order in Council dated 24th January, 1911, the completion of the dam including such close-sheet piling in the foundation, and other alterations that may be found necessary to be proceeded with by day's labour, and further that the plant and materials on the ground be bought at a fair valuation based on actual cost supported by vouchers certified under sworn declarations.

Respectfully submitted,

WILLIAM PUGSLEY,

Minister of Public Works.

EXHIBIT 2.

AUDITOR GENERAL'S OFFICE, CANADA,

OTTAWA, January 28, 1909.

SIR,—Enclose please find Mr. St. Laurent's memorandum *re* 'Storage Dam at Foot of Lake Temiscaming,' which you left with me yesterday for consideration of the question whether, in view of the change in plan from Cribwork to Concrete, it might not be necessary to call for new tenders.

The present difficulty is, that a blank item-schedule (intended to be comprehensive and final) was attached in error to a form of bulk-sum tender, and described as 'Prices for extra work.' Prices were named by the tenderers, both for the bulk-sum and for the items; and it is fair to assume that the item-figures are tendered for extra work.

The contract was awarded to tender 'A,' largely as a result of low prices for Excavation and Timber. Tender 'A' named \$3.50 for Concrete, as against \$9, \$10 and \$8 from 'B,' 'C' and 'D.' (Attached please find prices paid for Body Concrete on Ontario canals, under contract; the localities being of course easier of access.)

To get a more permanent structure, it is now proposed to change the plan from timber to Concrete,—thus eliminating much of the timber, and increasing the Concrete to nearly three-quarters of the work.

If the question of the public interest in speedy completion is not raised, I do not think that the proposed precedent is a safe one to establish, when the Specification has been so radically altered.

Mr. St. Laurent explains in conversation, that one reason for letting the contract at an early date (without further advertising), is to allow the stop-logs and

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other heavy timber to be prepared and delivered before spring-time, and thus enable the dam to be operative at the end of 1909, instead of at the end of 1910.

This would be accepted by the Audit Office as coming under chapter 7 of the Statutes of 1905, namely: 'The Minister. . . . shall invite tenders by public advertisement, except in cases of pressing emergency in which delay would be injurious to the public interest. ' This Departmental responsibility is not divided with the Audit Office in any way. It is for the Government to say whether the advantages of competition are more than off-set by the urgency of the special circumstances.

Lower rates might be obtained on the increased quantities,—or perhaps higher; The saving of one season may not be worth the price paid for it; More experienced contractors might possibly be induced to compete on an improved specification; The extended time might be of use in elaborating the plans, which are present incomplete: All these are questions outside of the Audit sphere of control.

It occurs to me that, since Urgency affects the supply of Timber only, and not the Concrete, it might be feasible to separate the Stop-logs and other heavy timber from the rest of the work, and advertise it in a detailed bill for the Lumber Dealers to deliver on the site, cut to size. This part of the work could proceed at once, while plans and tenders are preparing for the Concrete Dam, to be let on a second contract, to builders of experience in that line, who would take the timber as supplied to them, and fit it into their own structure.

For any contracts let under 'Urgency' instead of 'Competition,' the prices will need to be certified 'Fair and just.'

I am, sir,

Your obedient servant,

J. FRASER,

Auditor General.

The Deputy Minister,
Public Works.

EXHIBIT 3.

—691-11.

OTTAWA, July 6, 1911.

SIR,—Replying to your letter of 19th May last, with reference to the works at present being carried out for your Department by Messrs. Kirby & Stewart in connection with the construction of a dam on the Ottawa River at the foot of Lake Temiscamingue;

It appears that in 1908 public tenders were asked for the construction of dam bulkheads and slides at Head of the Long Sault Rapids, Ottawa River, that the tender of Messrs. Kirby and Stewart, amounting to \$76,000, was the lowest tender and that authority for the acceptance was given by Order in Council dated 18th January, 1909. This tender included a schedule of prices, though for what purpose does not, I think, appear from the papers before me. The Order in Council of January 18th, 1909, was never acted upon, as upon further consideration a different scheme of works was decided upon.

An estimate of the cost of the new works, based on the schedule of prices, showed, according to the statement in the Order in Council of 13th March, 1909, that Messrs.

3 GEORGE V., A. 1913

Kirby and Stewart's price would be approximately \$108,050, and that this would be lower than any other tenders received worked out in the same manner. The Order in Council of 13th March, 1909, annulled the Order in Council of 18th January, 1909, and gave authority to enter into a contract with Messrs. Kirby and Stewart for the construction of a concrete dam, bulkheads and slides at the unit prices mentioned in the schedule thereto, or an approximate total of \$108,050. Such contract was entered into on 22nd July, 1909. On 24th January, 1911, an Order in Council was passed, which recites that the cost revised to that date amounted to \$176,840, and gives authority for the payment of large additional sums to the contractors, beyond what they are entitled to under their contract.

You ask to be advised as to the legality of this Order in Council of January 24, 1911. I desire to point out, in the first place, that there is a substantial difference between the works originally proposed and for which tenders were invited in 1908 and the works now being carried out. It appears from the Order in Council of 24th January, 1911, that a concrete structure was substituted for a wooden one; that the site of the dam was changed; the section of the dam also changed; the conditions in the foundations altered; a large amount of work not originally contemplated involved, involving increased cost, due, as the contractors claim, to the radical changes and alterations from the original plans which formed the basis of their original tender.

In these circumstances it is, I think, questionable whether section 36 of the Public Works Act should not have been complied with in respect of the altered project, and therefore, whether in view of the absence of tenders by public advertisement for the execution of the works, the Governor in Council had the power to authorize the contract. Assuming, however, that the contract as executed is *intra vires*, the facts may be such as to show that the increased payments provided for by the Order in Council of 24th January last were advisable or required in the public interest; and if so it cannot, I think, be doubted that the Governor in Council had the power to sanction them if the money necessary therefor be provided by Parliament.

Papers returned.

I have the honour to be, sir,

Your obedient servant,

E. L. NEWCOMBE,

Deputy Minister of Justice.

EXHIBIT 4.

AUDITOR GENERAL'S OFFICE, CANADA.

OTTAWA, April 1, 1911.

The Deputy Minister,
Department of Public Works,
Ottawa.

SIR,—Let me acknowledge receipt of your Application No. 922 for \$7,977.99 in favour of Kirby & Stewart, for Cofferdams, unwatering, etc., at the Temiscaming Storage Dam in January, 1911.

History of Work.

The contract for a concrete dam (instead of cribwork) was signed by Messrs. Kirby & Stewart in July, 1909, though work had been then going on for about two months.

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The schedule-of-prices for the Concrete Dam was taken from the tender for the Cribwork Dam, including the item of \$4,000 for all the Unwatering. The contractors objected that \$4,000 was insufficient, but they signed the Contract notwithstanding. They also objected to the rates for Excavation.

The whole work, as carried through up to the present time, was specified and planned before the Contract was signed; there have been no subsequent changes of importance.

Unwatering the Complete Work.

The Unwatering necessary to carry out the Amended Specifications and plans, may be divided into three sections:—

(a) Cofferdam across the whole river, some distance north of the permanent sluiceways at the Island. This coffer-dam was to enable the river bed to be excavated down to 570;

(b) Cofferdams above and below the sluiceways in the Ontario channel;

(c) Cofferdams above and below the sluiceways in the Quebec channel.

Unwatering as Actually Performed.

(a) The northern Cofferdam was not built. The Contractors were relieved of the necessity of lowering the river-bed any further up-stream than a line 250 feet north of the platform in the Ontario Channel. The river-bed excavation up-stream from the 200 ft. line was assumed by the Department of Public Works, and this part of the work was done, partly by a gang of divers and blasters paid by the Department, and partly by the Departmental dredge 'Queen,' brought down from Hailybury. This was a double advantage to the Contractors, in that it not only obviated the construction of the cofferdam, but also relieved them of excavation at a rate which they claim is too low. An advantage of this kind should always be valued, and charged to the Contractors.

(b) Engineer Coutlee estimates; that the two coffer-dams in the Ontario channel cost about \$2,000 each, or \$4,000, with (say) \$2,000 for punping: this estimate is not disputed by the Audit Office. The Unwatering of the Ontario channel alone will thus use up the \$4,000 of the original tender.

(c) There still remains the unwatering of the Quebec channel, now in progress: and the Order in Council of January 24, 1911, proposes that the Government should intervene to relieve the Contractors, namely: 'That authority be given to pay the Contractors, over and above the contract prices, the actual cost of coffer-damming and unwatering necessary to complete the dam across the Quebec channel, plus the usual 15 per cent for incidentals.'

No Precedent for Increased Payment.

We have no record in the Audit Office, of any previous case of this kind, where an Order in Council amended a contract, in the direction of giving increased remuneration to a Contractor, over and above the amount of his tender.

If the Contractors are to be relieved by payment additional to their tender, the only way now apparent is to place a sum for them in the supplementary estimates for 1911-12, with a full description of the circumstances.

Total Cost of Unwatering Quebec Channel.

The items of cost are approximately these:—

1910, to December 31—say	\$14,000	
1911, January 1 to 24—say	6,000	
		\$20,000
1911, January 25 to 31—say	2,000	
1911, February, \$8,000, March, \$8,000	16,000	
		\$18,000

Or about \$40,000 in all.

If the Order in Council is to operate only after its own date, the \$20,000 spent before January 24 would not be included; and the 'coffer-damming and unwatering necessary to complete the dam across the Quebec channel' would cost \$18,000 or \$20,000.

I am, sir,

Your obedient servant,

FREDERICK HAYTER,

for Auditor General.

The Assistant Deputy Minister,
Public Works Department.

EXHIBIT 5.

DEPARTMENT OF PUBLIC WORKS,
OTTAWA, July 12, 1911.

Sir,—We have the honour to state, regarding the construction of the Temiscaming dam, Ottawa river:—

That in January, 1909, an Order in Council was passed, accepting the tender of Messrs. Kirby & Stewart, to construct a wooden dam on the Ottawa river at the foot of Lake Temiscaming.

That in March 1909, a subsequent Order in Council authorized a change from a wooden to a concrete structure, which necessitated considerable alterations in the plans and location.

That, on account of these changes and unexpected difficulties met with in the cofferdamming and unwatering necessary to build the concrete dam on the Quebec side of the river, an Order in Council was passed in January 1911. This granted authority to pay the contractors, over and above their contract prices, the actual cost of cofferdamming and unwatering required, plus the usual 15 per cent for tools profit, office expenses contingencies, etc.

That the attempt to build the concrete dam before the spring high water of 1911 has failed. The cofferdam was only laid dry after several months of effort to make it water-tight, on account of the unfavourable nature of the bottom. Work for only a few days was possible in the pit before the cofferdam was overtopped and part of it carried away.

That the small amount of excavation done in the bed of the river for the foundations of the concrete dam, before the cofferdam failed, showed the boulder material to be underlaid by water-bearing sand. We are therefore of the opinion that close sheet-

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piling extending below the concrete cut-off wall of the dam will be advisable as an additional factor of safety.

Owing to difficulty experienced this season in passing the four million sawlogs that annually descend Temiscaming Lake, we also desire to change the design to give larger openings. This change entails a thicker and longer apron for the Quebec sluiceways.

That in a communication addressed to the Department of Public Works, the Contractors themselves have represented that it would be exceedingly difficult to continue the work under the present circumstances owing to conditions entirely beyond their control. Further, they state that the close sheet-piling proposed in the foundations will largely increase their risks, by lengthening the period of difficult work to be done inside the coffer-dam. This sheet-piling like the unusual difficulties connected with unwatering, was not expected and so, not provided for in their contract.

In view of all these facts, we consider it advisable and in the public interest, not to proceed further with the construction of the work as at present contracted for.

That the contract should be terminated at the present stage by returning the security deposit to the Contractors, paying for work done and materials delivered and plant supplied. We also advise proceeding with the reconstruction of the coffer-dam, the construction of the concrete dam with modified openings for passage of logs, and sheet-piling by day's labour.

We therefore recommend that authority be given to take the necessary steps in order to arrive at a proper and final settlement with the present Contractors. That the work be paid for at contract rates, and also that coffer-damming and unwatering be paid as per terms fixed by Order in Council passed January 1911. That the plant and materials on the ground be bought at a fair valuation based on actual cost, supported by vouchers certified under sworn declarations. That the security deposited in connection with their contract, amounting to \$8,000, be returned as there is no default. Authority is also requested to proceed by day's labour with the completion of the dam, including such close sheet-piling in the foundation and other alterations that may be found desirable, as the work progresses.

Respectfully submitted, -

A. ST. LAURENT,

C. R. COUTLEE,

Eng. in Charge.

Honourable WILLIAM PUGSLEY,
Minister of Public Works,
Ottawa, Ont.

EXHIBIT 6.

This Agreement made in duplicate, the Fifth day of the month of October, in the year of our Lord one thousand nine hundred and eleven.

Between His Majesty King George the Fifth, represented herein by the Honourable the Minister of Public Works of Canada.

Of the first part:

And Thomas Sydney Kirby and Robert Gordon Stewart, Contractors, both of the City of Ottawa, in the County of Carleton in the Province of Ontario, Dominion of Canada, carrying on together the business under the name and firm of 'Kirby &

Stewart' hereinafter called the parties,

Of the second part,
Whereas, the said Kirby & Stewart, under authority of an Order in Council, dated 18th January, 1909, were awarded a contract for the construction of a wooden dam on the Ottawa river at the foot of Lake Temiscaming.

And whereas, on 13th March, 1909, a subsequent Order in Council was passed, authorizing the change from a wooden to a concrete structure, which necessitated considerable alterations in the plans and location of the work, and on account of these changes and unexpected difficulties met with in the cofferdamming and unwatering necessary to build the concrete dam on the Quebec side of the river, authority was obtained from Council on 24th January, 1911, to pay the contractors, over and above their contract price, the actual cost of coffer-damming and unwatering required, plus the usual fifteen per cent for tools, profit, office expenses and contingencies.

And whereas, on a report of the Committee of the Privy Council approved by His Excellency the Governor General, dated 11th August, 1911, the Minister was authorized, for reasons stated in the said report, to terminate the contract with the firm of Kirby & Stewart, and to return the security cheque of \$8,000 deposited in connection with the same, the work already performed, materials delivered, and plant supplied to be paid for;

Now therefore this agreement witnesseth:—

1. That the parties hereto have agreed that the contract of the firm of Kirby & Stewart with the Department of Public Works, for the construction of a dam on the Ottawa River at the foot of Lake Temiscaming be cancelled, and that the security cheque of \$8,000—deposited in connection with the same, be released.

2. That the work already executed, which may be considered as absolutely necessary, shall be paid for at its actual and reasonable cost.

3. That payment for the coffer-dam and unwatering shall be made as per the terms fixed by the Order in Council of 24th January, 1911.

4. That the plant and materials of the said Kirby & Stewart on the ground, be purchased and payment made therefor by the Department at a fair valuation, based upon the actual cost, supported by vouchers certified under sworn declarations.

In witness whereof the parties hereto have hereunto set their respective hands and seals the day, month and year first above written.

Signed, sealed and delivered by the Deputy Minister and counter-signed by the Secretary of the Department of Public Works, in the presence of:

J. A. CHASSÉ.

J. B. HUNTER,
Deputy Minister of Public Works.
R. C. DESROCHERS,
Secretary.

Signed, sealed and delivered by the parties of the second part in the presence of:

J. A. CHASSÉ.

KIRBY & STEWART,
Per R. GORLON STEWART.

**(Copy of Draft Agreement.)*

THIS AGREEMENT made in duplicate, this _____ day of _____, 1911.

BETWEEN:

HIS MAJESTY THE KING, represented here, by the Honourable WILLIAM PUGSLEY, Minister of Public Works of Canada,

Of the First Part.

and

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THOMAS SYDNEY KIRBY, of the City of Ottawa, in the County of Carleton, contractor, and GORDON STEWART, of the said City of Ottawa, contractor, carrying on business under the firm name of KIRBY & STEWART,
Of the Second Part.

WHEREAS, the said Kirby & Stewart, under authority of an Order in Council, dated 18th January, 1909, were awarded a contract for the construction of a wooden dam on the Ottawa River at the foot of Lake Temiskaming:

AND WHEREAS, on 13th March, 1909, a subsequent Order in Council was passed, authorizing the change from a wooden to a concrete structure, which necessitated considerable alterations in the plans and location of the work, and on account of these changes and unexpected difficulties met with in the coffer-damming and unwatering necessary to build the concrete dam on the Quebec side of the River, authority was obtained from Council, on 24th January, 1911, to pay the contractors, over and above their contract price, the actual cost of coffer-damming and unwatering required, plus the usual fifteen per cent, for tools, profit, office expenses and contingencies.

AND WHEREAS, on a report of the Committee of the Privy Council, approved by His Excellency the Governor General, dated 11th August, 1911, the Minister was authorized, for reasons stated in the said report, to terminate the contract with the firm of Kirby & Stewart, and to return the security cheque of \$5,000 deposited in connection with the same, the work already performed, materials delivered, and plant supplied to be paid for:

NOW THEREFORE THIS AGREEMENT WITNESSETH:

1. THAT the parties hereto have agreed that the contract of the firm of Kirby & Stewart with the Department of Public Works, for the construction of a dam on the Ottawa River at the foot of Lake Temiskaming be cancelled, and that the security cheque of \$8,000 deposited in connection with the same, be released.

2. THAT the work already executed, which may be considered as absolutely necessary, shall be paid for at its actual and reasonable cost.

3. THAT payment for the coffer dam and unwatering shall be made as per the terms fixed by the Order in Council of 24th January, 1911.

4. THAT the plant and materials of the said Kirby & Stewart, on the ground, be purchased and payment made therefor by the Department at a fair valuation, based upon actual cost, supported by vouchers certified under sworn declarations.

IN WITNESS WHEREOF the said the Minister of Public Works hath hereunto set his hand and seal and the said parties of the Second Part have hereunto set their hands and seals.

Signed, sealed and delivered in the presence of:

* This Draft Agreement was endorsed on the back as follows:—

Dated. 1911.

His Majesty the King
and

Kirby & Stewart.

Agreement.

Chrysler, Bethune & Larmonth,
Barristers, Ottawa.

PUBLIC SERVICE COMMISSION

1912

SPECIAL REPORT

ON

SOREL SHIPYARD.

Marine and Fisheries Department.

To His Royal Highness the Governor General in Council:

MAY IT PLEASE YOUR ROYAL HIGHNESS,—

The Public Service Commission have the honour to present a report concerning the shipyard at Sorel, in the Province of Quebec.

The Commission were fortunate in obtaining the services of Mr. W. S. Jackson, a practical shipbuilder of long experience, and of Mr. T. H. Schwitzer, a mechanical engineer, to investigate closely the physical conditions of the shipyard, and the methods of work pursued there. Their report, submitted herewith, has the approval of this Commission. Messrs. Price, Waterhouse and Company of Montreal, chartered accountants, were employed by the Commission to investigate the books and accounts at the shipyard, and their two reports are also forwarded herewith. These also have the approval of this Commission. It will be noticed that so far as they touch upon the same subjects, the reports agree with one another.

The Commission also submit a report of evidence given before two of the Commissioners at Sorel. The Commission have not thought it necessary before reporting to take any more evidence than is here submitted, as it did not appear probable that anything further could materially affect the conclusions at which the Commissioners had arrived.

Upon the three reports, the evidence submitted, and the personal observations of the two Commissioners, we make the following findings:

(1) There has been grave mismanagement in the conduct of the operations of the shipyard. Great waste has resulted, and the conditions which have existed for some time demand that drastic reforms shall be instituted.

(2) This grave condition of affairs is chiefly due to three facts:—

(a) For several years the direction has not been under a practical shipbuilder, and has been inefficient.

(b) A sufficiently close connection has not been maintained between the shipyard and the Department of Marine and Fisheries; *i.e.*, there has been little or no inspection and control from headquarters of the operations at the shipyard.

(c) The Director has submitted too completely to political pressure from candidates or supporters of the government for the time being. Those working in the shipyard have come to feel that the shipyard is a political institution, and have not been inspired with the knowledge that good work is the prime requisite to continued employment.

(3) The shipyard has been maintained principally for two purposes:—

(a) The repair of dredges and other craft engaged in the work of the St. Lawrence ship channel and otherwise, and

(b) The construction of dredges and other craft for the ship channel and for other purposes.

The repair work chiefly takes place in the winter. In the summer, the larger portion of the work has been the construction of new dredges and other craft. It has been suggested that construction work at Sorel should be abandoned, and that the dredges and other craft required for the Government service should be obtained by tender and contract from private builders. This suggestion has been based upon the undoubted fact that the cost of construction at Sorel has been larger than it should have been, and has been increasingly expensive. It is said that the government can obtain the craft it requires more cheaply by the tender and contract system than by

building at Sorel. We find that if construction in the summer time be wholly abandoned, there will not be sufficient work to maintain the skilled workmen necessary for repair work in the winter. Sorel is too small a place to afford employment to many such workmen except in the shipyard, and consequently efficient repair gangs will not be readily obtainable. For this and for other reasons we think it desirable that construction work should be continued at Sorel, if arrangements can be made so that there will be a closer approximation between the cost at Sorel and by tender and contract. With the plant which is now at Sorel, supplemented in certain particulars, it is possible for the shipyard at Sorel under competent management to construct dredges and other craft as speedily, cheaply and well as by private shipyards. We believe that if a thoroughly competent practical man can be placed in charge of construction, the cost, quality and speed of the work done will justify the maintenance of the shipyard, not merely for repair work, but for construction work also. We suggest that as a test of what can be done under capable management, a practical and experienced shipbuilder shall be placed in control, and an order now be given for the construction of a dredge or other vessel, and another order be given at the same time for a similar dredge or other vessel to a private contractor, and that those connected with the shipyard shall be informed that the result as to the cost, quality and speed of the work will largely determine the question of the future maintenance of the shipyard as a point for construction. To place the shipyard at Sorel in a position to do the best possible work, reforms must be made, and the best results cannot be attained speedily, but nevertheless the test proposed would be a valuable one.

In view of the large cost of installing and maintaining shipyards, and the prevailing tendency to merge large industries, it is desirable that the Government should maintain shipyards of its own, even though the cost of the work may sometimes be greater than for similar work by tender and contract, having in view the value of such shipyards as regulators of prices, and as instruments for preventing monopolies.

(4) We find also that having regard to its situation on the St. Lawrence, and to quality and the quantity of labour obtainable, Sorel is well situated as the site of a shipyard. The evidence goes to show that the men employed in the shipyard are competent, and that if they can be impressed with the knowledge that political considerations will not be invoked to excuse them from doing the best they are capable of, they can produce good results. They should be given to understand that the official in charge of the shipyard will not be interfered with in the exercise of authority to employ and to dismiss, and that partisan political considerations will not be permitted to exercise any influence over the operations at the shipyard.

(5) We find that the person in charge of the practical operations should be supreme in the control of the yard, but that he should be advised in the exercise of that authority by a Board constituted of the Assistant Director and the Chief Accountant. The Superintending Engineer of the Ship Channel might be asked to sit on this Board when at Sorel. Regular meetings of the Board should be held, at least weekly, the Director presiding, and minutes of its proceedings accurately kept, and a copy of these minutes transmitted each week to the Department at Ottawa. It should be clearly understood that the supreme authority of the Director is not lessened by the existence of this Board, whose functions should be merely consultative and advisory. The Assistant Director should have immediate charge of all the correspondence, subject, of course, to the Director, and be helpful to the Director in every possible way. The Chief Accountant at the shipyard, though subject to the Director, should also be placed under the authority of the Chief Accountant of the Department at Ottawa, and should report periodically. The practical operations of the Shipyard should be inspected from Ottawa, at least once in three months, and perhaps oftener, and the Chief Accountant at Ottawa should cause the accounts and books at the shipyard to be inspected at least once in three months. One of the

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causes of trouble at the shipyard has been the feeling of detachment from and complete independence of the Department at Ottawa, except, perhaps, in the recognition of the direct authority of the Minister of Marine and Fisheries over the Director at Sorel.

In our opinion it is essential to the successful prosecution of work at the shipyard that every vestige of political patronage should be destroyed, and that the men employed there should be made to realize that neither employment nor dismissal shall be affected in any degree by partisan considerations. The men in charge of operations should be convinced that the best possible results in the form of work done are expected of them, and that to produce these they will be given authority as well as responsibility. If the Director wishes to dismiss men for incompetency or other cause, or because the number employed is too large, he should not only have authority to do so without referring the question to the Department, but should be instructed that he is not so to refer a matter which is solely within his discretion. If foremen or labourers are required, the Director should employ the best men he can obtain, and not be restricted to choose from lists supplied to him by the Department or from any other source. In this way, the Department will be relieved of much unpleasant work, and also of fault-finding criticism, and at the same time the quantity and quality of work done will show vast improvement. No objection can be made to the receipt of recommendations from any persons who desire to procure employment for men, and lists of such recommendations should be kept at the shipyard for reference, but the point is that the Director should not be cribbed, cabled and confined in the exercise of his authority by the existence of such lists. No person unworthy of being entrusted with the exercise of such powers should be placed or be continued in charge at Sorel, and no person could succeed there without enjoying the complete confidence of the Department and possessing the authority indicated.

We suggest that when a new Director has been appointed, the Minister of Marine and Fisheries shall publish to those employed in the shipyard a statement expressive of the principles on which operations shall be continued, for the purpose of aiding the new Director, by an unmistakable announcement of what will be expected from all those employed in and about the shipyard. This course is proposed because unrest has been created by partisan agencies, and there is grave necessity for restoring discipline and displaying authority.

We are of opinion that hereafter, the person in charge at Sorel should be designated Superintendent, and the present Assistant Director be known as Assistant Superintendent, as significant of the closer relations hereafter to be maintained between the Department and the shipyard.

In the report to the Commission by Messrs. Jackson and Schwitzer, very many improvements which should be made in the shipyard have been pointed out, with a view to convenience, to the saving of expense and to the performance of more and better work. While endorsing the suggestions therein made, the Commission feel that the practical working out of these proposed improvements should be left to the discretion of those charged with the direction of affairs at Sorel, and that the support of the Department of Marine and Fisheries and of the Government should be given to these officials in all attempts to improve the physical condition of the shipyard and all that appertains to it. If the direction of the shipyard be competent, and if the close connection with the Department which is here recommended be maintained, all necessary improvements will undoubtedly follow as quickly as may be expedient.

The Commission draw special attention, however, to questions which arise with reference to a lease of the land on which a principal part of the shipyard buildings have been placed. That lease contains a provision for the purchase of the land by the Government, and having regard to the value of the works placed on the land by the Government from time to time, and to the situation of the land on the

Richelieu River, it should be seriously considered whether the land should not be purchased at once, if the shipyard is to be maintained and improved. It has been suggested that the leased land can be abandoned, and the operations of the yard carried on further down the river, but this would involve considerable expense, and the location might not be so convenient for certain purposes. This matter, however, is one on which the Commission have not, at present, sufficient information to express an opinion, and, therefore, content themselves with drawing attention to the subject.

Hitherto the Director has resided in the town of Sorel, on the side of the Richelieu River opposite to the shipyard. This has made close touch and observation of the yard somewhat difficult. We find that the new Director should be provided with a residence near the shipyard, and have been informed that a suitable place can be obtained at a reasonable price.

The Commission informed the Minister of Marine and Fisheries, some days ago, of its intention to make a finding to the effect that it was desirable to appoint a practical ship-builder in place of Mr. Papineau, the Director of the shipyard. It has since been announced that Mr. Papineau has resigned, and the question of the qualifications which should be possessed by the man to be appointed as his successor is properly open for observation. It has been said that as the labourers at the shipyard are almost exclusively French-Canadians, and few of them able to speak English, the new Director should be a French-Canadian, or at least able to speak French; that otherwise dissatisfaction may prevail amongst the labourers, and the new Director find his position very difficult and unpleasant. After inquiry regarding this matter, the Commission are persuaded that not much weight should be attached to these considerations. As to the language question, it is sufficient to point out that while ability to speak French would undoubtedly be an advantage to the Director, yet such a qualification is not indispensable, for the Assistant Director and other officials at the shipyard are capable of speaking both languages, and the orders and instructions of the Director from time to time could, without difficulty, be conveyed to those persons who would have the oversight of the performance of such orders and directions. The matter of supreme importance is that in experience, ability and character, the Director should be a man capable of impressing himself and his authority upon those employed at the shipyard. The dredges and other craft constructed and repaired are of steel and iron, and, therefore, an extensive knowledge by the Director of steel and iron ship-building is a prime requisite; experience in the control of large numbers of ship-builders is another requisite; tact and discretion in the handling of men is a third requisite. Labourers are very quick to observe ignorance or other incapacity on the part of their superiors, and they very soon lose confidence in the direction of any man who does not know his business practically. On the other hand, they have respect and confidence in the man whose conduct evinces a through knowledge of the subject over which he has control. No greater injury could be inflicted upon the Sorel shipyard, and all those who have employment in it, or are otherwise concerned about it, than that the direction of its affairs should be in the hands of an incompetent or inexperienced man. Such a continuance would necessarily result in the termination of construction work at the shipyard, and the non-employment, therefore, of one half, perhaps, of the force which has hitherto been maintained; and as we have already pointed out, this would make it difficult to obtain repair gangs, and consequently it might happen that the existence of the shipyard, as a place for repair work, even, would be terminated. We are satisfied, therefore, that an effort should be made to obtain for the practical direction of the affairs of the shipyard, the ablest, practical and experienced ship-builder of steel and iron vessels whose services can be procured, without regard to the question of racial extraction or of language. A decision that this shall be the case, and an appointment of a Director upon the sole ground of his qualifications as a ship-builder, will of itself be a significant intimation of that new policy which alone can justify the continuance of

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Sorel as a place for construction, and which, if successful, will lead on, by and by, perhaps, to the enlargement of the yard, and the establishment of a great national place for the construction of vessels not merely connected with dredging, but with the whole service of the Dominion.

All of which is respectfully submitted.

ALFRED B. MORINE,
Chairman.

G. N. DUCHARME,
R. S. LAKE,
Commissioners.

Ottawa, 31st May, 1912.