

March 16.

In recalling the events of those days and having in mind the accusation that has been made against the Premier, I remember very vividly my discussions with Dr. Hogg as to the attitude of the Premier toward these proposals and how we might get the Premier to concur in them. The Premier had left no doubt in my mind as to his attitude and that he was unalterably opposed to any settlement, but was determined to fight the Beauharnois litigation to the end, bitter or sweet as it might be. When the final and definite proposals to which I have referred had been formulated, it became a matter of very great importance and urgency that the attitude of the Premier should be ascertained without delay and that, if at all possible, we should persuade him to authorize the settlements Dr. Hogg had negotiated, and I recall very distinctly that I undertook with Dr. Hogg to do what I could to persuade the Premier and I understood he would do the same. So Dr. Hogg and I were in truth ganging up on the Premier, although he did not know it and this is probably the first time he has heard it so expressed.

#### **Compromise Needed.**

You can't get all you want in a settlement of a lawsuit; and if the Government had insisted upon all the terms the honorable member for Bellwoods says we should have had, then there never would have been a settlement. The Beauharnois litigation would have continued with all the consequences which I will later point out.

Nothing can be gained by an academic discussion of the law applicable to this whole matter. The Honorable Leader of the Opposition may very properly and quite honestly disagree with me and so may the honorable member for Bellwoods, or any other lawyer, and yet nothing would be settled thereby. A lawyer's opinion is after all only an opinion. You may back a lawyer's opinion just as you would a race horse. But there are some irrefutable facts which cannot be ignored and which, in my opinion, fully support the conclusion I arrived at and the position this Government has taken.

An attempt had been made in the statute of 1935 to invalidate all the contracts. The effect of this statute had been tested in the Supreme Court of Ontario. In the Ottawa Valley case, three Appeal Judges had held that the act was not effective, and that the contracts, in that case, were binding on the Commission. In the Beauharnois case the Trial Judge and five Appeal Judges had held that the statute of 1935 was not effective, and that the Beauharnois contract was legal and binding. From reading the judgments of the Court of Appeal in both cases it was apparent that to succeed before the Privy Council, it would be necessary to persuade the Privy Council to reverse the finding of the Ontario

Court of Appeal and the essential basis of their judgment.

#### **Confirmed in Doubts.**

Let me say that I have and I believe we all have the greatest respect for our courts and particularly the Judges of our Supreme Court. Their judgments are sound and generally regarded as enunciating good law. One must be very optimistic indeed to hope to obtain a reversal of a judgment concurred in by nine Judges of our Supreme Court. So in the final result we had to decide whether to risk the Privy Council Appeal or complete the available settlements.

I am frank to say that from what knowledge of the law I possess, I would hesitate very seriously before advising any client to assume such a risk, particularly, when the consequences which would follow an adverse decision would be so serious and far-reaching. My very grave doubts were, furthermore, substantially confirmed by Mr. Carrick of the Legal Department of the Hydro, who was very familiar with this whole case, and by R. S. Robertson, K.C., admittedly one of the leading counsel in Ontario and Treasurer of the Law Society.

The honorable member for Bellwoods has been censorious of the Government for authorizing these settlements, and maintains that the Government should have prosecuted the Beauharnois appeal, abiding the consequences. Well, may I point out to this House that the Ottawa Valley litigation was in the same position, with an appeal to the Privy Council pending, when it was settled and a new contract entered into? And may I further point out that that was done when three of our Supreme Court Judges had decided for us and three against us? If the honorable member for Bellwoods preferred a settlement of the Ottawa Valley litigation rather than the risk of a Privy Council decision, can he now suggest that it is any less desirable to settle the Beauharnois litigation? Perhaps, it is because all the Judges were against us in the Beauharnois litigation, and only three against us in the Ottawa Valley litigation. Perhaps, he prefers to gamble with greater odds against him. Well, this Government is not going to undertake any such a gamble with the very destinies of our people, but prefers to adopt a safe, sane and sound course.

Viewing this whole matter of the Hydro settlement in its true perspective and in the light of all the facts and circumstances and the law, it is simply the case that the Government has made the best of a very bad situation. And, as I have previously pointed out, there can be no question or doubt as to who created that situation. It was the Conservative Governments of 1926 to 1930.