

From the knowledge our clients have recently gained as to the other tenders made, it would appear that there is such a disparity between our client's tender and the other tenders submitted as to make it obvious that our clients must have proceeded on a wrong basis. Indeed, they are given to understand that their tender for Lots 2 and 3 far exceeds the highest tender for all the Lots 1 to 4.

Our clients have charged all their assets to obtain funds to carry out the transaction and Mr. Archibald has made arrangements for financial assistance from his relations. It is now realized that the enforcement of the contract would involve them all in heavy loss and it may be in financial ruin.

Our clients suggest that in these circumstances the Government would not hold them to a contract which they entered into under a misapprehension and the execution of which would result in such heavy loss. They suggest that one of the following courses be adopted :—

- (a) That they be released from their tender, and their deposit returned to them, less the value of the vehicles they have removed from the Park. The Board would then be able to accept some other tender under clause 8 of the conditions of sale.
- (b) That they be given an opportunity of revising their tender and submitting a new offer, which they could do immediately.

Our clients have asked us to put the position before you quite frankly. While they hope they may be released from the present contract by the adoption of one of the courses suggested, yet if this cannot be done they will be obliged to resist the enforcement of the contract by every means available to them.

This letter was read to the meeting, and the General Manager recommended that Archibalds be released subject to conditions.

Minute No. 1699 reads :—

The General Manager recommended as follows :—

- (a) That all previous tenderers be informed that the successful tenderers for Lot 2 (Dodge) and Lot 3 (Jeeps) were unable to proceed with the deal and that therefore fresh tenders were invited for these two Lots either as a whole or as two separate Lots.
- (b) That Messrs. Archibalds Ltd. be informed that should any amended tender which they care to submit be accepted then the deposit already paid will be treated as part of the purchase price otherwise the deposit originally paid is to be forfeited.

The recommendation of the General Manager was approved.

The procedure of the Board and its actual decision call for serious criticism.

It seems hardly credible that a matter of such importance should have been disposed of in such a summary manner and with such remarkable expedition, but the facts are only too clear. The General Manager received the letter half an hour before the meeting. He read over the letter and made his recommendations—this was all the information the members of the Board had and, as stated by the General Manager and the Deputy Chairman, there was very little discussion. No question was raised, and the Board was unanimous. Mr. Hutching's evidence is to the same effect. As is evident, no record of the Board's decision was made in the minutes, but that is left to be inferred. The Board made no report to the Minister, nor did it direct any one to report and no communication was received from the Minister. A reference to the minutes confirms there could have been little time for discussion or consideration. The meeting lasted some two and a half hours, during which some forty-four matters were disposed of as recorded in the minutes—the record covering some thirteen typed foolscap pages. It will also be noted that the General Manager had reversed his attitude of the previous two days when he had told Archibald, and again his solicitor, that the Board would hold him to his contract.

When application was made to the Commission to admit some indirect evidence as to the Minister's knowledge it was objected to and refused. At a later stage I asked counsel for the Board if he intended calling the Minister, and when he replied in the negative I publicly recorded a minute as follows so that the Minister would be apprised of the position and could give evidence if he wished :—

I have to make reference to the application to tender indirect evidence in respect of the Right Honourable the Minister of Finance. Application was made to the Commission to admit evidence of a report of the Board's decision on the question of the release of Archibalds by a member of the Board to the Minister and of the opinion expressed by the Minister thereon. I use the word "opinion" and not "decision" advisedly, as the release of Archibalds had already been legally finalized by the decision of the Board. For obvious reasons, the admission of such secondary evidence was refused.