

GILBERT BROTHERS ENGINEERING CO. v.  
THE KING.1918  
Dec. 9, 10

ON APPEAL FROM THE EXCHEQUER COURT OF CANADA.

1919  
Feb. 4*Public work—Contract—Payment to contractor—Certificate of engineer.*

APPEAL from the judgment of the Exchequer Court of Canada (1), in favour of the Crown.

In 1897 the appellants obtained the contract for clearing out the channel through the Gallows Rapids in the St. Lawrence and later, under the same contract, of deepening and widening the channel. Payments were to be made only on the certificate of the engineer, the contractors, if not satisfied with any such certificate, being obliged to file their claims within thirty days from its receipt.

The work was completed, the securities released, and the plant handed over to the contractors, after which they filed a claim for about \$130,000 which two engineers had certified they were entitled to. The Exchequer Court judge dismissed an action to recover this amount on the ground that no claim for any part of the amount was filed as the contract required and the final certificate had been issued.

The Supreme Court of Canada affirmed this judgment after hearing and consideration.

*Appeal dismissed with costs.*

*Tilley K.C. and Pringle K.C. for the appellants.*

*Howard K.C. and Tyndale K.C. for the respondent.*