

contracts for sale of 231 vehicles when he was recalled to Wellington by Archibald, who said he had been told by a man, Holmes, up from Christchurch that he had paid too much, and that he (Archibald) had cancelled his cheque and asked to be released from his contract. Warner said his commission on the vehicles already sold would amount to £1,000—*i.e.*, 2 per cent. on £50,000. In view of this evidence Archibalds' application for release was precipitate. Warner considered his total commission at  $2\frac{1}{2}$  per cent. would have been between £3,000 and £4,000 on the rest of the saleable vehicles.

In view of the amounts subsequently realized by Vincent and Carter this latter estimate would appear optimistic to the height of extravagance. The Board, of course, could not have had the benefit of the above evidence (except, perhaps, Warner's) when Archibalds were released in March, but the point still is that they acted with needless and undue precipitancy and failed to explore the position in the matters above set out and were not in a position to make any recommendation to the Minister, and there was a serious dereliction of duty on the part of the General Manager and the Board, first, in releasing Archibald off their own bat without reference to the Minister, and, secondly, in failing to fully investigate the position and report the result to the Minister with the Board's recommendation.

Without such full investigation the Board was not warranted in taking any action, so it would not profit to speculate what such investigations would have revealed to the Board and what action should have been thereon or whether some arrangement for realization and sharing any loss with Archibalds should have been made. Nevertheless, it should be pointed out that a proper investigation might have revealed the dealings of the Board's own valuer, Warner, with Archibalds', and Warner's evidence showed that Archibalds stood to make no loss, which is confirmed by the subsequent dealings of Carter and Vincent, the successful second tenderers. Further, that the claim for release from their contract by Archibalds in the circumstances stated by Warner, he having already made sales amounting to £50,000 in four to five days, would have given them no claim to indulgence by the Crown.

The ultimate loss to the State was £13,887.

**(10) In adopting the provisions which are contained in the conditions of further tender.**

This relates to the time of nine months to clear the site. I do not see that the Board could well have fixed a longer period, as this was the period fixed in connection with the much heavier job—the G.M.C.s—and if a longer period had been fixed for the smaller jobs Gillies would then have had a legitimate grievance and claim for extension. Further, there is no evidence that a longer period was really necessary for the smaller jobs, and the Dodges were actually cleared in five weeks.

**(11) In affording only the previous tenderers the opportunity of submitting further tenders.**

The Board had to consider the question of delay and its consequences which would have been caused by advertising, and I consider the Board exercised a reasoned and reasonable judgment in this matter. There is one matter, however, which does invite criticism. Archibalds were invited to submit fresh tenders, and their forfeited deposit (£3,165) on their first tender was to be applied as a deposit if their tender was successful.

In short, £3,165 of Crown moneys were to be applied as their deposit, which would give them a £3,165 start as against other tenderers. This might have created a situation justly evoking comment. However, Archibalds were not the successful tenderers. Also, no doubt sensing the implications of the position, their solicitors wrote as follows withdrawing their tender :—

We have been instructed by Archibalds Garage Limited to withdraw the revised tender submitted by that firm for Lots 2 and 3. We shall be obliged if you will take this letter as notice of withdrawal of the tender.

Some publicity has been given to this matter and the Company feels that in the light of this unpleasantness it would be better if they were not associated with the matter any further.