

and performed the said work and your said Government received the benefit thereof.

“4. Other accountants performing similar work upon the same investigation and under the same authority were paid for the same by your said Government at the rate of \$15 per day and travelling expenses and \$3 per day for living expenses while travelling and while engaged on such work at Ottawa, and your suppliant performed the said work on the understanding that he would be paid at the said rates, and the said rates are a fair and reasonable price to be paid for the said work.

“5. All conditions were fulfilled, all things happened and all times elapsed necessary to entitle your suppliant to payment of the amount incurred for his said work and expenses paid by him, yet the same still remains wholly unpaid and unsatisfied.

“Your suppliant therefore humbly prays that he may be paid the amount owing to him, that is to say :
 For the said 29 days service at \$15.00 per day. \$435 00
 For money disbursed by your suppliant for
 living expenses 29 days at \$3.00 per day..... 87 00
 And for travelling expenses from St. Catharines
 to Ottawa 2 round trips at \$22.60 for each
 trip 45 20
 And living expenses while travelling in all 4
 days at \$3.00 per day..... 12 00

In all..... \$579 20
 and interest thereon from the 1st day of January, 1892.
 Dated the 20th day of November, A.D. 1894.”

The following are the material clauses of the statement in defence :

“2. Her Majesty’s Attorney-General further says that there never was any contract between Her Majesty and the suppliant, or between any duly authorized agent of Her Majesty and the suppliant, for the per-

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formance of the work and services which the suppliant states in his petition of right were done and performed by him.

“ 3. Her Majesty’s Attorney-General further says that any work and services which were done and performed, or any money which was expended by the suppliant in connection with the investigation, mentioned in the first paragraph of the petition of right were so done, performed and expended for and on behalf of the Committee on Privileges and Elections of the Parliament of Canada, and not for and on behalf of Her Majesty ; and, further, that Her Majesty the Queen never received any benefit or advantage of or from the said work, services and expenditures, as mentioned in the third paragraph of the petition of right.

“ 4. Her Majesty’s Attorney-General further says that the said C. A. Geoffrion, in the petition mentioned, was not at any time during the said investigation, employed as one of the counsel representing the Department of Public Works or the Government of Canada, and that the said C. A. Geoffrion was not authorized or empowered by Her Majesty to employ the suppliant on Her behalf, as an expert accountant, in connection with the said investigation.

“ 5. Her Majesty’s said Attorney-General submits that under no circumstances is Her Majesty, as representing the Dominion of Canada, answerable or responsible to the suppliant for or in respect of the claim in the said petition of right mentioned, and he denies that the suppliant is entitled to the relief prayed for in the said petition.”

The case was heard at Ottawa before the Judge of the Exchequer Court, on the 24th day of February, 1896.

*W. D. Hogg*, Q.C., for the respondent, at the close of suppliant’s case, moved to dismiss the petition upon the ground that the evidence offered did not disclose

any contract between the suppliant and the Crown, or the Executive Government. There was nothing to show that the Crown had undertaken to pay the claim, or was in any way liable for it. (He cited *The Queen v. McLean* (1); *Hall v. The Queen* (2).)

*E. A. Lancaster*, for the suppliant, contended that the suppliant had established sufficient grounds upon which to find a liability on the part of the Crown to pay this claim. The Crown had got the benefit of the suppliant's services; that being so, an implied contract arose between the parties. The Crown should be held liable to pay upon a *quantum meruit*.

THE JUDGE OF THE EXCHEQUER COURT now (March 22nd, 1896) delivered judgment.

The petition will be dismissed.

It is clear, both on principle and authority, that one who performs labour at the instance of a Committee of the House of Commons does not thereby acquire an action against the Crown for his services. In *The Queen v. McLean* (3), Chief Justice Sir William J. Ritchie, referring to the contract in question in that case made between the contractors and The Joint Committee on Printing of the two Houses of Parliament, said: "Her Majesty is no party to this agreement, directly or indirectly. The Parliamentary printing was matter connected with the internal economy of the Senate and House of Commons, over which the Executive Government had no control. The Crown could neither dictate to the joint committee of both Houses, nor interfere, nor deal with any contract entered into by them or by their clerk under their authority. The Crown neither authorized the execution of any contract for the work contemplated, nor in

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(1) 8 Can. S. C. R. 210.

(2) 3 Ex. C. R. 373.

(3) 8 Can. S. C. R. 224.

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“ any way authorized the doing of the work to be per-  
 “ formed under this contract. The Crown neither em-  
 “ ployed the suppliants to do this work nor entered into  
 “ any contract in reference thereto. The suppliants were  
 “ in no way bound to the Crown nor, in respect to this  
 “ contract, subject to its control. The Crown could  
 “ neither put an end to the contract, nor enforce it, nor  
 “ in any way interfere with its execution. This contract  
 “ gave the Crown no right of action against the sup-  
 “ pliants, nor the suppliants against the Crown; in  
 “ other words, the Crown was no party to the contract  
 “ and, therefore, cannot possibly, on any principle I  
 “ can conceive, be held responsible for a breach of it.”

What the learned Chief Justice said in that case is applicable to the present case.

There will be judgment for the respondent with costs.

*Judgment accordingly.*

Solicitor for suppliant: *E. A. Lancaster.*

Solicitors for respondent: *O'Connor & Hogg.*

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