
[E.C.] 1877

WOOD v. THE QUEEN.

April 23. *Petition of Right — Demurrer—Executory Contract — Non-compliance of contract with 31 Vic. c. 12 s. 7—Unauthorized expenditure on Public Works.*

By his petition of right, W., a sculptor, alleged that he was employed by the Government of the Dominion of Canada to prepare plans,

models, specifications and designs, for the laying out, improvement and establishment of the parliament square in the City of Ottawa ; that he had done so, and had, at the request of the Government, superintended the work and the construction of said improvements for a period of six months. He claimed \$50,000 for the value of his services.

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By 31 Vic., c. 12, s. 7, it is provided that in order to make written contracts binding upon the Department of Public Works, they must be signed and sealed by the Minister or his deputy, and countersigned by the secretary ; by sec. 15 of the same act, it is provided, that before any expenditure is *incurred*, there shall have been a previous sanction of parliament, except for such repairs and alterations as the public service demands ; and sec. 20 thereof requires that tenders shall be invited for all works, except in cases of pressing emergency, or where, from the nature of the work it could be more expeditiously and economically executed by the officers and servants of the Department.

Held: (per Richards, C.J.) 1. That the Crown in this Dominion cannot be held responsible under a petition of right on an executory contract entered into by the Department of Public Works for the performance of certain works placed by law under the control of the Department, when the agreement therefor was not made in conformity with the 7th sec. of 31 Vic., c. 12.

2. That under sec. 15 of said act, if Parliament has not sanctioned the expenditure, a petition of right will not lie for work done for and at the request of the Department of Public Works, unless it be for work done in connection with repairs and alterations which the necessities of the public service demanded.
3. That in this case, if parliament had made appropriation for these works and so sanctioned the expenditure, and if the work done was of the kind that might properly be executed by the officers and servants of the Department under sec. 20 of said act, then no written contract would be necessary to bind the Department, and the suppliant should recover for work so done. See Can. S.C.R., vol. VII., p. 634.