

GEORGE B. BRADLEY..... PLAINTIFF;

1897.

AND

April 26.

HER MAJESTY THE QUEEN..... DEFENDANT.

*Civil servant—Extra work—Hansard reporter—The Civil Service Act,
sec. 51—Application.*

The plaintiff was Chief Reporter of the Debates staff of the House of Commons and, as such, was paid an annual salary out of moneys voted by Parliament. He was employed by the chairman of a Royal Commission to report the evidence and perform other work connected with the execution of the Commission at certain rates of remuneration fixed by agreement between him and the chairman—the same to be paid out of a sum voted by Parliament to meet the expenses of the Commission.

Held, that he was entitled to recover such remuneration notwithstanding the provisions of sec. 51 of *The Civil Service Act* that no extra salary or additional remuneration of any kind whatsoever shall be paid to any deputy head, officer, or employee in the Civil Service of Canada, or to any other person permanently employed in the public service.

THIS was a claim for moneys alleged to be payable to the claimant for certain work performed in and about the execution of a Royal Commission.

The plaintiff was Chief Reporter of the Debates staff of the House of Commons of Canada and received a yearly salary in respect of such office payable out of moneys voted by Parliament. On the 21st of July, 1892, he was employed by the Chairman of the Royal Commission appointed in that year to inquire into the state of the liquor traffic in Canada, to report the evidence taken thereunder. He entered upon the work of reporting the evidence, and the further work of editing the same, at certain rates of payment agreed upon between him and the chairman of the Commission. Payments on account of these services were made to him

1897
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 BRADLEY  
 v.  
 THE  
 QUEEN.  
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 Statement
 of Facts.
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by cheques signed by the chairman and secretary of the Commission, but at the conclusion of the work there was a balance due the claimant at the rates so fixed by agreement, and the Department of Finance declined to authorize the payment of such balance alleging as reasons therefor that the rates charged by claimant were excessive, and that the claimant was not entitled to the amount claimed inasmuch as he was a permanent officer in the public service and was prevented by section 51 of *The Civil Service Act* from receiving any other moneys than his salary unless they were first voted by Parliament. These were also the substantial grounds of defence set up in the pleadings, and relied upon at the trial.

The following is the section of *The Civil Service Act* upon which the case turns :—

“51. No extra salary or additional remuneration of any kind whatsoever shall be paid to any deputy head, officer, or employee in the Civil Service of Canada, or to any other person permanently employed in the public service.”

April 24th and 26th, 1897.

The case came on for trial at Ottawa.

*W. D. Hogg*, Q.C., for the plaintiff;

*E. L. Newcombe*, Q.C., (D.M.J.) for the defendant.

At the conclusion of the trial and argument, judgment was delivered by

THE JUDGE OF THE EXCHEQUER COURT :—

I think the plaintiff is entitled to recover, notwithstanding anything contained in the 51st section of *The Civil Service Act*. If I am wrong in this view the Crown will have the benefit of its objection upon an appeal to the Supreme Court of Canada, if an appeal should be taken.

We come then to the question of the amount, and I am of opinion to allow the following items: First, with reference to the evidence, the rates of 30 cents per folio for ten copies and 25 cents per folio for eight copies, which should give the claimant in addition to the amount already allowed him, a sum of \$677.70. 2ndly. The amount which was allowed and paid to him as assistant secretary, viz.: \$288.00. 3rdly. The amounts which aggregate the sum of \$1,967.00. These were allowed and paid to him for editing and revising certain work for the commission, in connection with which he was employed 281 days at \$7.00 per day. These two amounts, \$288.00 and \$1,967.00, have already been paid, but, in a later adjustment of the accounts, were deducted. I think they should be allowed. 4thly. I also think that the evidence shows that the claimant is entitled to \$105.00, that is \$7.00 per day for 15 days while employed in doing similar work, but for which he was not paid; and also the other amount claimed of \$93.60 for 117 hours at 80 cents per hour, which is the equivalent of \$7.00 per day. This makes in all \$3,131.30. From this certain deductions should be made. For the 281 days mentioned the claimant has been allowed \$3.50 per day as a living allowance, for which I think there was no authority. That will make a deduction of \$983.50. In the same way and for the same reason there should be a deduction of \$52.50 in respect of the allowance made for 15 days at \$7.00 per day. Then, I think, too, that the amount paid by claimant to his colleagues (part of the \$1,000 referred to in the evidence) was not paid to his colleagues by the claimant as agent for the Government, but in pursuance of a private arrangement between the members of the Hansard staff, and that the claimant has been improperly credited in his accounts with

1897

BRADLEY

v.

THE  
QUEEN.Reasons  
for  
Judgment.

1897  
BRADLEY  
v.  
THE  
QUEEN.  
Statement  
of Facts.

these payments, and the amount should be deducted. These sums have been stated as amounting to \$833.25, and, subject to correction, that may be taken as representing the actual amount for which credit has been given in respect of these payments. This makes a total amount of deductions of \$1,869.25, leaving the judgment to go for \$1,262.05, and costs. The amount, however, of \$1,262.05 may be adjusted in settling the minutes of judgment in case there should be any error in the figures as stated.

*Judgment for claimant, with costs.\**

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

Solicitor for defendant: *E. L. Newcombe.*

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\*REPORTER'S NOTE—Affirmed on appeal to the Supreme Court, 17th October, 1897.