

J. WILTON LITTLECHILD, M.P. v. the people of Alberta

Docket No. 9012000725

IN THE COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL DISTRICT
OF WETASKIWIN

BETWEEN:

ERIN WALL, PIETER BROER, IRENE LOVELL, JOE KURTA

JAMES MANN, KEITH BEEBE, LYLE LINK, and DALE HATALA

as and for the constituency of Wetaskiwin and the Citizens of Canada

PLAINTIFFS

- and -

J. WILTON LITTLECHILD, M.P.

DEFENDANT

REASONS FOR JUDGMENT

Wetaskiwin, Alberta

10th December, A.D. 1990

Proceedings taken in The Court of Queen's Bench, Law Courts,
Wetaskiwin, Alberta.

10th December, 1990

The Honourable Mr. Justice, E.A. Marshall Justice of The Court of Queen's
Bench of Alberta

E. Molstad, Esq. For the Defendant

E. Wall For the Plaintiffs

Official Court Record

THE COURT:

Thank you. Well as you suggested and conceded Ms. Wall, it appears clear to me that the Statement of Claim must be struck out -- that legal proceedings are not the correct forum to seek the relief which has been sought. Counsel for Mr. Littlechild have outlined the law.

The Statement of Claim alleges a failure on the part of Mr. Littlechild to consult with the constituency members and a failure on his part to account to them, further failing to ascertain their views in voting for the government's goods and services tax and failing to adequately represent their views in his voting for the government's goods and services tax.

It appears that the action is a claim of a breach of duty on the part of the M.P. of the Plaintiffs. It seems clear on the authorities and I note in Roman Corporation which has been cited, that if I have any doubt on this application, as to whether the Plaintiffs have a cause of action, I must give the benefit of that doubt to the Plaintiffs and refuse the application and leave the matter to be decided at a trial.

However, I am satisfied the Plaintiffs have no cause of action against the Defendant. I know of no legal duty on an elected representative at any level of government to consult with his constituents or determine their views. While such an obligation may generally be considered desirable, there is no legal requirement.

I adopt the quotation from the trial in the Roman Corporation case, where he said:

"It is of the essence of our parliament system of government that our elected representatives should be able to perform their duties courageously and resolutely in what they consider to be the best interests of Canada, free from any worry of being called to account anywhere except in parliament.

So it appears to me that the only remedy existing for the Plaintiffs is the remedy provided by our Constitution in the right to vote in a future election.

I note also that the prayer for relief gives some difficulty.

They request an Order of the Court recalling the Defendant to account to the Plaintiffs in his constituency for his actions in parliament. I would be inclined to strike the Statement of Claim on that paragraph as well. But, I note they do make a prayer for such other relief as the Court shall deem just which probably is general enough that the action could not be struck out on that account alone.

So I am satisfied that no court can compel the Defendant to account to his constituents and just to show you what really occurs in this application, Ms. Wall, what I am really assuming for the moment is that everything you have said in the Statement of Claim is correct. Even if that is all true the Court can't give you assistance because in the drafting and the exercise in the use of our constitution through the decades, it has been the wisdom of our Fathers of Confederation and others that M.P.'s must be given a right to carry out their duties without any worry about being called to account during their term of office.

That is the way our constitution was drafted and I must take judicial notice of the Act which relates to Members of Parliament, the Parliament of Canada Act, that the members of the House of Commons enjoy all the privileges and immunities of Members of Parliament, Parliament of the United Kingdom. So, under the circumstances I am dismissing -- or I am allowing the application to strike out the Statement of Claim and it will be struck out accordingly.