

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
The King v. McLean, from the Supreme
Court of Canada; delivered the 10th July
1908.*

Present :

THE LORD CHANCELLOR.

LORD ROBERTSON.

LORD ATKINSON.

SIR ARTHUR WILSON.

[Delivered by the Lord Chancellor.]

The question in this Appeal arises on a demurrer. If, on any reasonable construction of the Respondent's Petition of Right, a cause of action could be proved, then the Respondent (the Suppliant) would be entitled to succeed. It will be for the learned Judge who hears the case, when the facts have been proved, to decide whether a cause of action has or has not arisen, but it is not for their Lordships to express an opinion beforehand, on the pleadings as they stand.

Accordingly their Lordships will humbly advise His Majesty to dismiss this Appeal. In accordance with the undertaking given on behalf of the Attorney-General for Canada when special leave to appeal was granted, the Appellant will pay the Respondent's costs of the Appeal as between Solicitor and Client.
