

The appeals were heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

Shirley Denison, K.C., and A. W. Holmsted, for the appellant Tyrrell.

Gideon Grant, for the appellant Hyland.

G. L. Smith, for the plaintiff, respondent.

RIDDELL, J., delivering the judgment of the Court, said that the Court at the argument decided against the contention of Tyrrell in respect of his personal liability, but reserved the question as to the lien upon his interest.

In 1913, the Rowland estate leased the land to Tyrrell for a term of years; in the same year, Tyrrell sublet to Hyland, with an agreement that Hyland should build according to plans to be approved by Tyrrell. Hyland entered into a contract with the plaintiff to build accordingly. The opinion of the Court was that, even if Tyrrell took no further part, this was a "request" under sec. 2(c) of the Mechanics and Wage Earners Lien Act, R.S.O. 1914 ch. 140. To render the interest of an "owner" liable, the work or service must be done, or the materials placed or furnished, at his request, express or implied; but there is no need that this request be made or expressed to the contractor—if the owner request another to build, and that other proceeds to build, by himself or by an independent contractor, the building being in pursuance of the request, the statute is satisfied.

Tyrrell's appeal was, therefore, dismissed with costs.

The personal liability of the appellant Hyland was alone in question upon his appeal; and the Court held that there was sufficient evidence to justify the Referee in deciding that Hyland personally gave the order for the work.

Hyland's appeal was, therefore, dismissed with costs.

JUNE 1ST, 1915.

*BALFOUR v. BELL TELEPHONE CO. OF CANADA.

Master and Servant—Liability of Master for Negligence of Servant—Driver of Hired Vehicle—Servant of Owner or Hirer—Evidence.

Appeal by the defendants from the judgment of the Senior Judge of the County Court of the County of Wentworth in favour of the plaintiff in an action for damages for injury done