

lant it may be that the subsequent correspondence would amount to a ratification of their acts; but as they did not assume to act for anybody but the construction company, there was nothing to ratify.

The letters of the 19th and 25th July would seem to indicate that the appellant or the writer of the letters was under the impression that the appellant was liable for the respondent's charges, but that is clearly not enough to render the appellant liable.

It was argued for the respondent that the conduct of the appellant after the receipt of the respondent's bill of charges, and especially the letters of the 19th and 25th July, estop the appellant from denying its liability, but I am not of that opinion. At most they shew that the appellant entertained the belief that it was liable to pay the respondent's charges, but there is nothing to indicate that the respondent changed its position to its prejudice relying upon the appellant's conduct and letters, and in the absence of evidence of that having taken place no estoppel arose.

There is besides the evidence of Greene to which I have referred that at the interview between him and Manners he (Greene) repudiated liability on the part of his company.

I have not overlooked the fact that the appellant on a previous occasion paid the cartage charges in respect of a machine shipped to the construction company under similar circumstances to the shipment of the machinery in respect of which the action is brought. The charges in that case amounted to less than \$5 and were paid as a matter of courtesy to the construction company, and there is nothing in this from which it can properly be inferred that a similar course would be taken in the case of subsequent shipments or which amounts to a course of dealing warranting the respondent in treating the appellant as liable to pay the cartage charges in question, but on the contrary the evidence shews, as I have said, that the contract for the delivery of the machinery to the construction company was made with that company.

The appeal should be allowed with costs and the judgment reversed, and judgment entered dismissing the action with costs.

MACLAREN, MAGEE and HODGINS, J.J.A., concurred.