

from March, 1873, to July, 1873; Postmaster-General, from July, 1873, to November, 1873, when the government resigned. In the present government he was President of the Council from October, 1878, to January, 1880, when he became Postmaster-General; Secretary of State from November, 1880, to May, 1881, when he again became Postmaster-General, which appointment he resigned in May, 1882, when he retired from the cabinet. Recently Mr. O'Connor has been acting as a commissioner for the consolidation of the Statutes.

DOUTRE v. THE QUEEN.

To the Editor of the LEGAL NEWS:

It is time to give back to this case its original title. Mr. Doutré was not a defendant in a penal case, as *The Queen v. Doutré** might imply, but was plaintiff, claiming from the Dominion Government proper remuneration for his services, before the Halifax Fisheries Commission, in 1877, under the Washington Treaty of 1871.

This being done, let us sum up the bearings of the judgment of the Privy Council, of the 12th July, 1884. (7 L. N. 242.) The following points seem to be now well settled:

1. The remuneration of a lawyer, wherever his services are rendered, is regulated by the law of his domicile, and the rules of his own bar.

2. The same law and rules determine his power to contract and to sue for fees and expenses.

3. The *quantum meruit* is the rate of his remuneration, where there is no express or implied contract to limit it.

In substance that decision is in conformity with the spirit of the jurisprudence of Canadian Courts, especially those of Quebec and Ontario.

Having weighed and closely examined the Canadian precedents, in order to sustain Mr. Doutré's position, I know what can be extracted from any particular case, to impeach the conclusion herein summed up; but I repeat that the substance of Canadian decisions is to be found in the judgment of the Privy Council.

* Before the Supreme Court and the Privy Council the cause took the title *Reg. v. Doutré*, the Crown being the Appellant.—Ed.

The principles regulating the English and French bar had the effect of raising, in some minds, doubts which have found expression on the bench, here and there; and it is fortunate that the true doctrine has at last received a final consecration, in accordance with the law common to citizens at large.

Wherever tariffs are made, with legal sanction, they constitute an implied contract between counsel and client, in the cases provided for. To alter or supersede that implied contract, it requires another contract, which must be proved according to the common law rules of evidence. For instance, in Lower Canada, no contract, the object of which exceeds \$50 in value, can be proved by oral evidence, if there exists no *commencement de preuve par écrit*.

The builder who constructs a house requires no written contract to obtain, in Courts, the value of his work and material. The *quantum meruit* will determine the amount of his claim.

The tariff does not provide for criminal or arbitration cases. Even in judicial arbitrations, lawyers are not expected to act. If they do, there is an implied contract that the value of their services shall be paid, on the same principle as in the case of the builder. In such cases, the builder or the lawyer requires no verbal or written agreement. It is the other party that requires an agreement to limit the *quantum meruit*. And this is the principle applied in the case of Mr. Doutré by the Exchequer and Supreme Courts, and by the Privy Council.

Of all the opinions expressed by the dissenting Judges of the Supreme Court, that of Justice Gwynne is the only one which was particularly noticed in England; and for those present at the argument, the weight of that opinion looked quite formidable, until the decree disposed of it. The pardonable error of date it contained did not affect its merits in the least.

J. D.

It is stated that the cases unheard in the English Chancery Division number 700, and in the Queen's Bench Division 1200. A correspondent of the *Times* suggests that a meeting be called of suitors and witnesses to send a deputation to the Lord Chancellor and the Lord Chief Justice at the opening of the Courts, and begin a course of organized pressure for reform.