

*Reasons for the Report of the Lords of the
Judicial Committee of the Privy Council on
the Appeal of James Leslie Williams (sub-
stituted for Critchett Walker, deceased) v.
John Howarth, from the Supreme Court of New
South Wales; delivered the 14th July 1905.*

Present at the Hearing :

THE LORD CHANCELLOR.

LORD MACNAGHTEN.

LORD DAVEY.

LORD ROBERTSON.

LORD LINDLEY.

SIR ARTHUR WILSON.

[Delivered by the Lord Chancellor.]

In this case their Lordships have already reported to His Majesty their opinion that the judgment appealed against cannot be supported.

The Plaintiff was in the service of the Crown and his payment was to be made by the Crown. Whether the money by which he was to be paid was to be found by the Colony or the Mother Country was not a matter which could in any way affect his relation to his employer, the Crown.

The learned Acting Chief Justice in giving his judgment in this case said :

“ The King has no concern with payments for services rendered in this Colony, the obligation is with the Government of New South Wales,” and so far as their Lordships can understand, this is the ground upon which the judgment rests. But with great respect to the learned Judge

this is entirely erroneous. The Government in relation to this contract is the King himself. The soldier is his soldier and the supplies granted to His Majesty for the purpose of paying his soldiers, whether they be granted by the Imperial or the Colonial Legislature, are money granted to the King, and the Appropriation Act, whenever an Appropriation Act is passed, simply operates to prevent its being applied to any other purpose.

Under these circumstances the money paid was money paid for the service rendered to the King, and no other payment could possibly be due upon the contract declared on.

Their Lordships have accordingly humbly advised His Majesty that the Judgment of the Supreme Court ought to be discharged except as to costs, and that the verdict entered for the Respondent ought to be set aside and a verdict entered for the Appellant. Having regard to the terms on which the Appellant was given special leave to appeal, their Lordships think that the Respondent's costs of this Appeal as between solicitor and client should be paid by the Appellant.
