

En Banc.] RECEIVER GENERAL OF N. B. v. TURNBULL. [Feb. 9.  
*Succession Duty Act—Voluntary transfer in contemplation of death.*

Testator, who died in 1899, seven years before his death voluntarily transferred 1146 shares in the Turnbull Real Estate Co., of the value of \$114,600, to his children.

*Held*, that they were not liable to succession duties under s. 5 of The Succession Duty Act of 1896, relating to voluntary transfers of property in contemplation of death.

*A. S. White*, Q.C., for plaintiff. *A. O. Earle*, Q.C., and *S. Alward*, Q.C., for defendant.

## Province of British Columbia.

### SUPREME COURT.

McCull, C.J.] ROBERTSON v. BEERS. [Dec. 12, 1899.  
*Practice—Ca. re.—Affidavit—Irregularity—Waiver by giving bail.*

Summons to set aside an order and the writ of *capias* issued thereunder and for delivery up of the bail deposited with the sheriff, on the grounds that: (1) The affidavit did not disclose a good and sufficient cause of action and is bad. (2) That the writ of *ca. re.* was not in the statutory form. (3) That the affidavit was not sufficient as to the defendant's intention to leave British Columbia.

The following were the irregularities in the writ of *capias* complained of: (1) That the style of cause was inserted, whereas there should be no style of cause, the form not making provision for this. (2) Vancouver was specified as the place for putting in special bail, whereas the form provides no place. (3) The expression, proceedings "may be taken" instead of "may be had and taken." (4) In the warning "a defendant" instead of "the defendant" and "plaintiff" instead of "plaintiffs."

The affidavit of J. H. S., on which the order for arrest was made, was in part as follows: "(1) That I am bookkeeper for the plaintiffs, and as such have a personal knowledge of the state of the accounts between the plaintiffs and defendant. (3) That the defendant, Norman Beers, is justly and truly indebted to the plaintiffs in the sum of \$482.19 for lumber and material supplied to the said Norman Beers at his request. (4) That on or about the 29th day of November, A.D. 1899, I saw the defendant Norman Beers, and pressed him for payment of the plaintiff's account. He then promised to give me an order on Messrs. Bowser, Godfrey & Co., for at least \$200 of the plaintiff's claim. (7) That I am informed by Ernest Evans, of the City of Vancouver, merchant, that the said Norman Beers informed him that he intended leaving for Dawson, and the said defendant also informed me to the same effect himself."