

WHY THEY DECIDED IN AFFIRMATIVE

FULL COURT'S REASONS FOR THEIR DECISION

Regarding Declarations Taken by Those Temporarily Outside Province—
Learned Judges Unanimous.

As stated in this paper a few days ago the Full Court had given affirmative answers to questions submitted to them with respect to applicants to be placed on the voters' list, who are temporarily outside the province. Thursday's Provincial Gazette contains the text of the judgment, which in view of the importance of the matter is reproduced in full. It follows:

Owing to the urgency of the case we think it is better to give our decision now rather than to reserve judgment. Speaking for myself, I am of the opinion that it is quite clear, in the first place, that the legislature did not intend to disfranchise any person simply because he might be temporarily absent from the province, especially applicants in the position of Mr. Earle, who has public duties to perform elsewhere. I do not think that can be gainsaid. The sole question is whether the machinery has been provided in order to enable such person to get on the list.

Now, dealing with section 11, sub-section b, the collector is required not to insert the name of any person on the list unless the form A is furnished in accordance with the act. Some meaning has to be given to the words "in accordance with the act." And we have to look at what is form A. We find everything on page 71 of this edition of the act which has been handed to me, is included in this form A. And it is obvious at a glance that it was not the intention of the legislature to have everything inserted in the application which is on that page. Included in it, for instance, is the title "Form A." I do not think it could be seriously contended that the omission of that would affect it. And again, the presence of the note which is at the bottom of that page, says:

"Any person applying for registration in any electoral district who is absent from the register of any other district, is liable to a penalty of fifty dollars. Any person who takes any false affidavit or affirmation is guilty of perjury and liable to fourteen years' imprisonment." It is not essential to the validity of the application. That being the case, it is evident that all that appears there should appear in the application in order to constitute a good application.

Then the only question is as to whether that portion of the jurat in the form which mentions that the affidavit is taken in the province of British Columbia is a vital or essential part of the form. I do not think it is. In the first place there is nothing in the act which says that this affidavit is not to be sworn outside of the province, or, affirmatively speaking, is to be sworn in the province. The only place in which anything is said about that is in this form. I do not think it is an essential part of the form to say that the affidavit is sworn in British Columbia. It is essential, according to Archibald vs. Hubley (1880) 18 S. C. R. 119, that it should be stated to be sworn before the commissioner before whom it purports to have been sworn. But it is not essential to making it a good affidavit to mention the place mentioned in the form.

Now, that being the case, there being nothing in the body of the act to say that the affidavit shall not be sworn outside of the province, I do not think the affidavit is invalid merely because it is sworn outside the province, as if it states where it is sworn it is "in accordance with the act," and it is moreover plain that if we were to hold that the wording of the jurat had to be strictly followed we should reduce the expression "and shows such person to be entitled to be placed on the register of voters" to useless verbiage.

With respect to the section providing for officers to take these affidavits, if it were necessary to be held, I would be quite prepared to hold that such an affidavit could be taken before a commissioner appointed to take affidavits outside the province for use within the province, because that officer is a provincial officer just as much as a commissioner for taking affidavits within the province. I am inclined to think, too, that the other officers named in the section are persons designate, i.e., that all included in the list who derive their powers from provincial authority, or who ordinarily reside and perform their duties within the province, could take these affidavits outside as well as inside the province. For instance, I think that the Mayor of Victoria could administer the oath in Seattle just as effectually as in Victoria.

But under all the circumstances, I think the best course for the proper authorities to take would be to avail themselves of the powers conferred by Sec. 21(a) of the Elections Act, and Sec. 11 of the Redistribution Act, and to provide a proper form for the use of persons temporarily residing outside of the province, and, especially naming proper officers before whom the affidavit is to be sworn. And I think further it may perhaps be a good plan to provide that such application should be put in a separate list, and that a separate list be made up of such voters, so that in any case of difficulty arising afterwards it will appear at once whether the application originated inside or outside the province. I would therefore answer the questions submitted to us as follows:

1. Under the Provincial Elections Act and Amendment Acts of the province of British Columbia, can an application to be placed on the register of voters for an electoral district in the province be sworn or affirmed outside the limits of the province; and can the venue and jurat of the affidavit, form A, "Provincial Elections Act Amendment Act, 1902," be varied to conform to that fact?

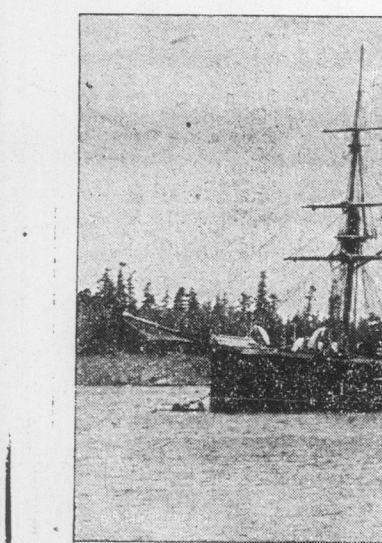
Answer: Yes.
2. If the answer is in the affirmative, what official may administer the oath or affirmation?
Answer: A commissioner for taking affidavits in and for the courts of British

Columbia, and any officer named in section 4 of the Provincial Elections Act Amendment Act, 1902, who derives his powers from provincial authority or who ordinarily resides and performs his duties within the province.

3. If the Provincial Elections Act provides no machinery for dealing with applications by persons temporarily outside the province, has the Lieutenant-Governor in council power, under the Provincial Elections Act and Amendment Acts, and section 11 of chapter 58, of the statutes of 1902, being the "Redistribution Act, 1902," to make regulations on this subject whereby any such affidavits or affirmations made without the province may be received by the collector of voters, and the applicants' names be placed on the register of voters? Answer: Yes.

(Sgd.) G. HUNTER, C. J.

My answer to the first and second questions is as follows:
By section 4 of the Provincial Elections Act of 1902, the affidavit of an applicant to be registered as a voter may be taken before a commissioner for taking affidavits in the Supreme court, and also, amongst other officers, before a notary. The Oaths Act, Cap. 3, R. S. B. C. 1897, provides for an appointment of commissioners within



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British Columbia, as well as without British Columbia, for the taking of affidavits for use in the Supreme court, as well as other courts of the province. It is in the second class of commissioners that we are concerned, namely, those appointed outside of the province. The provisions relating to them appear in sections 11, 12 and 13 of the act mentioned. Section 13 gives the powers to the commissioners to be, and, amongst them, names a notary public, who shall certify the affidavit under his hand and official seal.

Now, it is clear that any one of the persons named in section 13 has power as a commissioner for taking affidavits in the Supreme court to take the affidavit of an applicant for registration as a voter here who happens to be abroad. No commission would seem to be necessary, for the statute itself constitutes the persons named in section 13 as commissioners "out of British Columbia."

My answer to the third question is that rules and regulations may be made, provided they are not inconsistent with the provisions of the Provincial Elections Act, or of the Oaths Act. This latter act was not brought to our attention when the above questions were presented to us in council. It is a rule that franchise acts should be liberally construed.

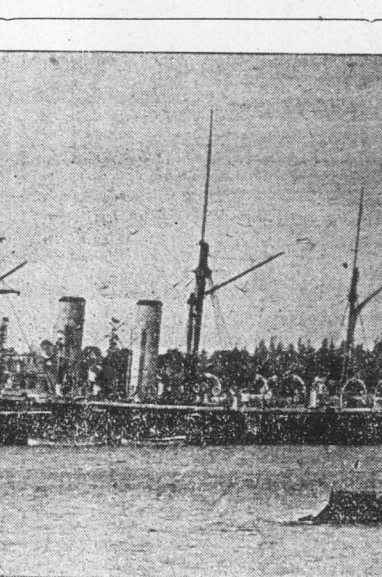
The object of the Elections Act is to enfranchise and not disfranchise persons who possess the necessary qualifications for being placed on the voters' list; and hence the act should, if possible, be so construed as to forward that object. Colquhoun vs. Brooks (1880) 14 App. Cas., 443.

(Sgd.) GEO. A. WALKER, J.

In reply to the questions referred to the Full court by His Honor the Lieutenant-Governor of British Columbia, I am of the opinion that question 1 should be answered in the affirmative.

The persons named in section 4 are entitled to take the affidavit mentioned in section 3 whether they are within or without the province, provided that they are officers appointed by the provincial government, as there is no restriction in the act limiting their powers to acts within the province. The only restriction from which it is contended that the person before whom the affidavit is taken must be within the province when the oath is taken is what appears in the jurat, "sworn before me at . . . in the province of British Columbia." The affidavit is, by section 2 of Cap. 21, to be in form A. That form contains matters which are directory only, and the omission of which will not invalidate the affidavit. If the form varies from the statute, the statute will govern. The term "Commissioner for taking affidavits in the Supreme court," for instance, is not restricted to commissioners within the province. There are numerous persons who hold commissions without the province to take affidavits without the province. If it had been intended to limit the officers to those within the province it was easy to insert restrictive words. The consequence is the language of the jurat must give way to the act. I am also of opinion that under section 11 of Cap. 58, 1892, and section 20, Cap. 38, 1898, (which is an amendment to the act of 1897, and the provisions of which, by section 7 of Cap. 58, 1892, are made applicable to the last-mentioned act), it is within the powers of the Lieutenant-Governor in council to make

regulations deemed necessary for carrying out the provisions of the act, or to meet any contingency not provided for, or make regulations in any proceedings for which express provision has not been made, or where partial provision only has been made, or when alterations of any forms may be found necessary. An act affecting the franchise should have a liberal construction to vote should be made. Any such additional regulations made by the Lieutenant-Governor in council are equally as binding as if inserted in the act itself. (Sgd.) M. W. TREVITT DRAKE, J.



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I have only a few words to add. I agree with the answers given by My Lord, except that, in my opinion, the second question should be answered so as to include any commissioner for taking affidavits without the province for use in the courts of British Columbia; also any notary public of a foreign province, country or state.

The following extract from Brooke on Notaries, p. 16, seems to me to be a conclusive authority for the proposition that if section 3 does not require the affidavits to be sworn within British Columbia, then a notary public without the province has the power to act under section 4: "A notary public being considered not merely as an officer of the country where he is admitted, but as an accredited officer in other countries, any affidavits sworn before, and instruments authenticated by, him being respected and received as evidence in foreign courts."

(Sgd.) P. A. E. IRVING, J.

OFFICERS FOLLOWED CLUE AROUND WORLD

And Arrested Beasley in South Africa on Charge of Forgery Committed at Rome.

Charles E. Herron, special agent of the department of justice at Washington, and Deputy U. S. Marshal D. R. Dwyer have reached Seattle with J. C. Beasley, who is wanted at Rome on the charge of forging and cashing two purported government cheques at that place in August, 1901.

Victorians will remember that these two officers were here some time ago with a prisoner, W. A. Wilson, a disbursing officer of the United States army, who was charged with the embezzlement of \$18,000 of government funds at Manila. He was convicted on two counts and sentenced to twelve years' imprisonment upon each conviction. He was brought to this city, and from here taken on board the liner Ath-

CONGRESSMAN LIVINGSTON SAYS PE-RU-NA IS A Splendid Catarrhal Tonic.



Colonel L. L. Livingston, Member of the Industrial Commission and the leading Democratic member of the Committee on Appropriations in the House of Representatives, whose home is at Atlanta, Ga., writes:

"I take pleasure in joining with General Wheeler, Congressman Brewer and others in recommending Peruna as an excellent tonic and a catarrh cure."—Col. L. L. Livingston.

All phases of catarrh, acute or chronic, are promptly and permanently cured. It is through its operation upon the nervous system that Peruna has attained such a world-wide reputation as a sure and reliable remedy for all phases of catarrh wherever located.

Mr. Jas. O. Morin, 1179 Ontario street Montreal, Canada, writes: "Peruna is certainly a great catarrh remedy. It cured me of catarrh of the head and I gladly endorse it. Canadians are peculiarly afflicted with this disease and for years the doctors have tried to overcome it with elixirs, powders and pills, but Peruna has solved the question and since the medicine has been established here hundreds of people have been cured of catarrh."—Jas. O. Morin.

If you do not derive prompt and satisfactory results from the use of Peruna, write at once to Dr. Hartman, giving a full statement of your case and he will be pleased to give you his valuable advice free.

Address Dr. Hartman, President of The Hartman Sanitarium, Columbus, O.

\$3.99 each and cashing them in at Nome. Beasley & Burns were government contractors, who built the government telegraph line from St. Michael to Kalgag, on the Yukon river. The checks were drawn in favor of Beasley & Burns, and were indorsed on the back with the name of Beasley. Beasley asserts that the indorsements as well as the checks are forgeries. He says he knows nothing of them.

Beasley was taken on June 10th. The officers started that night with him for Cape Town. There they waited a few days to allow him to arrange his business with his partners. They left from Cape Town on June 24th, landed in Southampton early in July, and, waiting there only five hours, sailed on the American liner St. Paul for New York. They evaded the newspaper men in the metropolis, but were ferreted out in Washington. After leaving Washington, however, they travelled incog, and their arrival in Seattle was not known even to the federal officials here. Only two or three friends were apprised of their coming a day ahead.

They left Washington last Thursday and arrived in Seattle on the Northern Pacific at 8.30 yesterday evening. Dwyer and Beasley took rooms at the Hotel Seattle, while Herron went at once to his home.

HOP GROWERS' UNION. Attempt Being Made to Raise the Price of This Season's Product.

Tacoma, Wn., July 31.—Prominent hop growers of the Pacific Northwest are endeavoring to secure unity of action among the producers with the object of controlling this season's production and advancing prices. Of the thirty thousand bales produced last year, the growers now hold less than three thousand bales, one dealer having just purchased three thousand bales in South Washington and Oregon for direct export to England. Growers are asking 15¢ cents per pound, with standing offers of 15 cents. Dealers have large orders which they find it hard to fill on account of the tendency of the growers to hold for better prices.

IT READS LIKE A MIRACLE. ONLY DODD'S KIDNEY PILLS ARE DOING SIMILAR THINGS DAILY.

Reuben Draper's Gravel Was Cured Three Years Ago—It Has Never Come Back.

Bristol, P. O., Que., July 31.—(Special.)—Reuben Draper, well-known here, tells a story of his cure of a bad case of gravel that would be considered miraculous if similar cures of Dodd's Kidney Pills were not being reported almost daily.

"About three years ago," says Mr. Draper, "I was taken ill with what I thought was gravel. I was suffering great pain, and the doctor I sent for gave me but little relief. Another doctor I tried failed to cure me, and I was getting weaker all the time.

"Then a man advised me to try Dodd's Kidney Pills as they had cured his mother, and I did so. In just one week after I started using them, I passed a stone as large as a small bean, and in four days after, I passed another about the size of a grain of barley. That is two years ago, and I have not had any trouble since."

Dodd's Kidney Pills cure all ailments of the bladder and urinary organs.

The Paterson Shoe Co. Ltd.

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We are the largest exclusive dealers in Boots and Shoes in the province, and carry complete stocks of every description of Boots and Shoes, Rubbers, Rubber Boots, etc., etc., in each of our five large stores. Minors Footwear a specialty. Letter orders promptly and carefully filled. Write for Catalogue to
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Prepared to purchase ores as from August 1st. Convenient to E. & N. or Sea.
CLERMONT LIVINGSTON, MANAGER.
THOMAS KIDDIE, SMELTER MANAGER.

Our Wines and Liquors

HAVE STOOD THE TEST OF TIME.
Our sales are larger than ever before in the history of our business. All this is due to the fact that we carry only the best qualities at right prices.
—TRY OUR—
CALEDONIA LIQUEUR, per Bottle..... \$1.00
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APOLLINARIS WATER, Pts. \$1.75
ANHEUSER-BUSCH BEER, Pts., per doz..... \$1.75

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Sole Agents for the celebrated **Jaes Unshrinkable Underwear**

Straw Hat Bleach, 100

Makes an old Straw Hat look like a new one. Doesn't turn the straw yellow. Sent by mail upon receipt of price.

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TELEPHONES, 425 AND 450.

MINERAL ACT. (Form F.)

CERTIFICATE OF IMPROVEMENTS. NOTICE.
Black Prince Mineral Claim, situate in the Victoria Mining Division of the Victoria Mining District. Where located: Gordon River. Take notice that I, E. P. Colley, as agent for Wm. Leckie, Free Miner's Certificate No. B7961, G. A. Kork, Free Miner's Certificate No. B7962, and J. West, Free Miner's Certificate No. B7963, intend, sixty days from the date hereof, to apply to the Mining Recorder for a Certificate of Improvements, for the purpose of obtaining a Crown Grant to the above claim. And further take notice that action under section 37, must be commenced before the issuance of such Certificate of Improvements. Dated this 16th day of July, A.D., 1903. E. P. COLLEY, P. L. S.

Teacher Wanted

Male teacher wanted for Quamichan school. Apply to James Robertson, Secy., Duncan's Station.

WANTED—Reliable man to sell for the large Fortmill Nurseries, largest and best assortment of stock; liberal terms to workers; pay weekly; only free territory. Stone & Wellington, Toronto.

\$1.00 PER V CANAD

VOL. 34.
NEW ANTHRACITE MINE IN

THE MONTREAL LONGSHOREMEN GO BACK

The Montreal Longshoremen Discharged Business A—The Lake Manitoba

Winnipeg, Aug. 3.—Bertha

widow of the Windsor Arrived in the right side hotel. Miss Finn with whom he resided in the hotel. Finn rest until the extent of injuries can be ascertained, thought the wound will be minor.

A new anthracite coal

discovered in Alberta at west of Okotoks. Back From Yukon. Miss Eva Booth, Canadian of the Station Arrived for several hours today. Toronto from a quick trip. Swan River Election. With thirteen polls to be held, Conservative, has majority in Swan River electoral.

Called Off.

Toronto, Aug. 3.—Mrs. Sles, widow of the late Chas. Victoria Methodist College day afternoon from an appointment. Occupation Gone. The Longshoremen's union Business Agent J. O'Neill, Bay City, Mich., O'Neill was of the men in the strike last night here for the purpose. A statement he accepted the position agent. Among the terminating O'Neill arranged walking delegates of the union to be allowed to approach the work on the wharves. T. tended that the observance of the destroyed O'Neill's use so they decided to save his life.

IRON AND STEEL BO

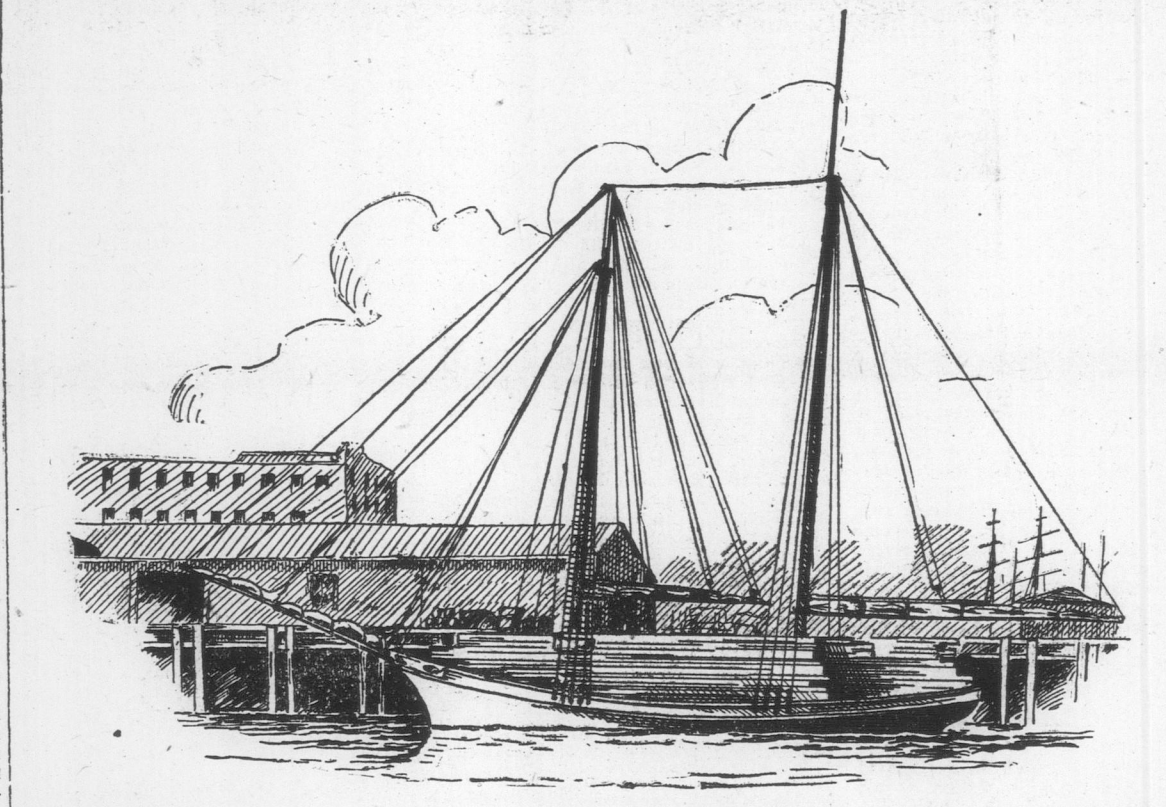
Resolutions Introduced in the Hon. W. S. Fielding. Ottawa, Aug. 4.—At the elections committee to-day of the committee decided. Hon. M. P., Beauharnois, did way violate the Independence Act by reason of prop was held by him, and which chased from him and after by the purchaser for a post at Valleyfield. Mr. Lew had edge that the site was to be Monk presented a minority report. The House this afternoon refer the question of printing and evidence to the printing. The House afterwards took S. Fielding's resolutions on the steel and iron. Hon. Mr. Fielding's resolutions, and the den said he was glad to see the government had wakened up to duty of protecting this industry.

MANY COSSACKS KIL

In Fight With Mobs in Russia. Partially Famine-Stricken. London, Aug. 4.—The copy of the Times reported the spread of labor troubles and suspension of traffic on the railway, which runs through canal, connecting the Black Sea, with the result that the starving towns between Harkov are partially famine-stricken. Cossacks are reported to have in encounters with mobs. Reported epidemic throughout S. Twenty-five thousand men at Odessa. Thus far no serious has occurred at Odessa.

REMOVE GRIEVANCE

London, Aug. 3.—The Times correspondent this morning de attitude of M. Devitt, the Ruler of finance, upon the labor is favoring measures for the tion of the condition of the is are partially famine-stricken, and the council of the endorsed M. Devitt's opinion police suppression cannot be satisfactory settlement.



The above picture of the Amethyst shows the vessel, lumber laden, at her wharf prior to her mysterious disappearance in the tremendous gales of the winter of 1902. As will be seen in another column of this paper, the schooner is now being offered for sale. Under instructions from A. R. Milne, receiver of wrecks, she will be sold by W. Jones, auctioneer, at the corner of Yates and Blanchard streets on Monday afternoon at 2 o'clock. The vessel was owned by H. Zimmerman, of San Francisco, and has been held by Collector Milne until the time had expired in which the owner should have communicated with him. She was bound from Coquille river for