

of the said located line could be sold or disposed of, except by the Dominion Government.

2nd. A declaration that all sales or other dispositions of land within the railway belt of the line, as defined in paragraph 8, not completed by grant prior to 12th May, 1883, are invalid.

3rd. An account of all lands pre-empted within the railway belt from Burrard's Inlet to Kicking Horse Pass, subsequent to 12th May, 1883.

4th. An account of all land sold, or agreed to be sold, within the said belt, subsequent to 12th May, 1883.

5th. An injunction to restrain the defendant, or any other officer of the Provincial Government, from selling any lands within the said belt, or from issuing any Crown grants for lands within the said belt.

6th. And such further and other relief as the nature of the case may require.

Delivered this 24th day of December, A.D. 1884, by

ROBERT E. JACKSON, *Plaintiff's Solicitor.*

P. A. IRVING, Esq., Solicitor for Defendant.

VICTORIA, B.C., 20th January, 1885.

MY DEAR SIR,—The Chief Justice refused the injunction asked for, on the ground that Act No. 2, of 1882, has taken away the jurisdiction of the Supreme Court and vested it in the Exchequer of Canada, and the statement of claim shows that the action is really a matter of controversy between the two Governments. We appealed to the full court, and the matter was argued yesterday and to-day, and the court sustains the ruling of the Chief. The court also discussed the question of parties, and seemed to be of the opinion that the dispute was not so much as to any ministerial duty of the Chief Commissioner imposed upon him by the Land Act, but rather as against the Provincial Government, and that there was no authority to the Provincial Government and no officer who could defend such a suit. It appears, too, as if the court holds that this is a provincial matter, and not a mere matter of carrying out a provincial Act that we should have a great deal of difficulty in substantiating our action, whether in the Supreme Court of Canada or elsewhere. If, however, we delayed proceedings until a Crown grant was actually issued, we could proceed by writ of intrusion or information against the actual purchaser of the land. This of course, involves an action against every person to whom the Provincial Government may give a grant, but it would avoid the question of jurisdiction, as not being a controversy between the Dominion Government and the Government of the Province. We enclose a copy of the Chief Justice's notes of his judgment.

Yours truly,

M. W. S. DRAKE.

Hon. J. W. TRUTCH.

ATTORNEY-GENERAL OF CANADA,

*vs.*

CHIEF COMMISSIONER OF LANDS AND WORKS, BRITISH COLUMBIA.

The statement of claim in this case, in my opinion, discloses, in the clearest way, or controversy between the Dominion Government and the Provincial Government, concerning the lands situated within the 40 mile belt therein described.

No statement of defence has been put in, but on a motion for an injunction to restrain the defendant from dealing with these lands, it is abundantly clear that he dissents very strongly from the views expressed in the statement of claim. In fact the mere circumstance of the filing of the writ and the application for an injunction, shows that the plaintiff and defendant differ greatly in their views as to their respective powers and interests in this 40-mile belt of the Dominion and of the Province respectively.