

In the Supreme Court of British Columbia.

ON APPEAL TO THE FULL COURT.

BETWEEN

THE HONORABLE GEORGE ANTHONY WALKEM,

Plaintiff,

AND

DAVID WILLIAMS HIGGINS,

Defendant.

This is a motion to the Full Court, on behalf of the defendant, that the verdict of the Jury rendered at the trial of this action on the 30th day of June, 1887, may be reversed, 10 and a non-suit or judgment for the defendant be entered, or, in the alternative, for a new trial between the parties.

PLEADINGS.

STATEMENT OF CLAIM.

1. The Plaintiff was Premier, Chief Commissioner of Lands and Works, Attorney-General, and a member of the Executive Council of the Government of this Province, from the 26th June, 1878, until the 12th June, 1882, and was duly sworn to faithfully fulfil the trusts and discharge the duties by law and usage appertaining to the said offices, severally.
2. Ever since the said 12th June, 1882, he has been one of Her Majesty's Judges of 20 this Honorable Court.
3. As Chief Commissioner of Lands and Works the Plaintiff, by Indenture dated the 24th February, 1880, contracted, on behalf of the Government, with Francis Bernard McNamée, Anthony Gilbert Nish, and James Wright, constituting the firm of "F. B. McNamée and Company," contractors, for the construction by them of a Graving or Drydock at Esquimalt, in consideration of the payment to them of \$350,997.20, or such other sums as might be due to them under specifications referred to in the said Indenture.
4. In June, 1880, the Plaintiff, as such Chief Commissioner, directed the said contractors to commence the construction of the Dock, but Mr. F. B. McNamée, on their behalf, requested the Plaintiff to allow work to be deferred until the following Spring: which 30 request the Plaintiff refused.