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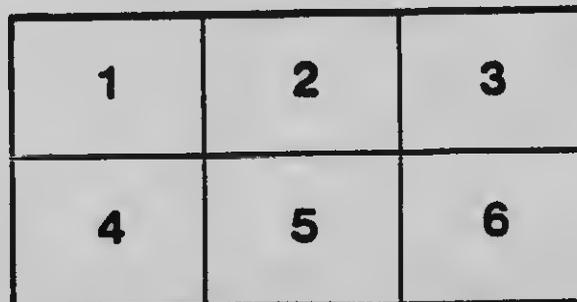
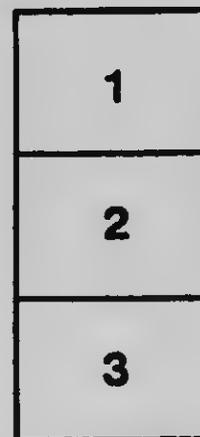
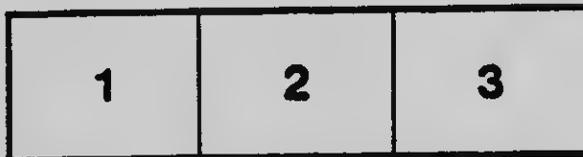
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The Facts

about the

WRIT

by

H. C. Brewster

GIFT

Victoria, B.C., June 30th, 1916. DEC 28 '16

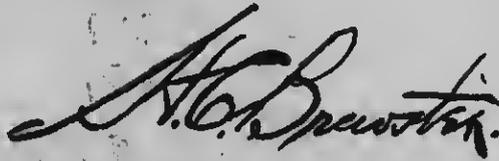
To the Electors of British Columbia:

I have brought an action in the Supreme Court of British Columbia to prevent the carrying out of unlawful arrangements having for their object the use of Provincial Money and Provincial Assets and Provincial Credit for private gain.

While the action is divided into several claims, based on separate sets of facts, the broad, general principle to be determined is whether Statutory Provisions enacted for the protection of the public interests, can be overridden by secret Orders-in-Council passed at the wish of promoters and others having projects inimical to public interest.

To make the necessity for bringing the action apparent to you I will divide my statement into Sections, and I want you to definitely understand that each statement made by me is evidenced and proved by Statute and Public Records, so that there is no possibility of argument or contradiction in regard to anything appearing herein.

Yours truly,



Leader Liberal Party.

The Facts about the Writ

SECTION 1

In the year of 1912, the firm of Foley, Welch & Stewart applied to the Government of British Columbia for a charter to build a Railway from Vancouver to Fort George. An agreement was made between Foley, Welch & Stewart and the Government, and two Acts of the Legislature passed, whereunder:—

Shares in
the Pacific
Great East-
ern Railway
Company

1. The Pacific Great Eastern Railway Company was incorporated:
2. The Government granted to it a right-of-way and station and divisional premises, and guaranteed its bonds:
3. The Share Capital of the Railway Company was fixed at Twenty-five Million Dollars; and
4. It was provided in the Act of Incorporation that the monies received from the Shares should be used in the construction of the Railway.

These Shares in a Railway Company having Government Grants and Government Guarantees were worth at least \$80.00 per \$100.00, and if disposed of and dealt with as directed in the Act of Incorporation would have produced Twenty Million Dollars for use in construction of the Railway.

At the last Session of the Legislature it was ascertained that these Shares, instead of being sold to raise money for the construction of the Railway, had been given to the firm of Foley, Welch & Stewart. Thus, instead of being an asset these shares were turned into a liability, and the Railway is made subject to a share liability of Twenty-five Million Dollars for which no value has been received, and upon which the payment of dividends would make necessary a very large increase of freight rates, thereby imposing a staggering burden upon the Province.

I am asking the Supreme Court to rectify this transaction so that the Railway Company and the Province may be relieved of the Twenty-five Million Dollars burden sought to be created by this unlawful gift of shares. The only answer to my claim for this relief has been that I am tying up the affairs of the Province. If the shares had been sold, as directed by law, the Railway would have been finished and in operation today; the tying-up has been caused by the unlawful diversion of the Railway Company's shares.

SECTION 2

By the Agreement ratified by Act of the Legislature it was provided that the monies realized from the sale of securities guaranteed by the Government should be paid out for the building of the Railway in proportion to the work done as compared with the entire work to be accomplished.

Government
Guaranteed
Securities of
the Pacific
Great East-
ern Railway
Company

At the last Session of the Legislature it was ascertained that all the guaranteed securities had been sold; that all the money realized had been paid out, and that the Railway was only about 62.5% completed.

There had been an undoubted misapplication of at least Seven Million Dollars of money borrowed on Provincial Credit, on which the Province is paying the interest, and will in due course be liable to pay the principal.

I am asking from the Supreme Court such relief as may be possible toward compelling replacement of the misappropriated funds. The only answer made is that I am tying up the affairs of the Province. An honest administration of Statute Law would have prevented any delay. The subversion of Statute Law by secret Order-in-Council action has made my recourse to the Court absolutely necessary.

SECTION 3

Government
Payment of
Railway In-
terest

At the last Session of the Legislature it was ascertained that the Government had paid out of the Provincial Treasury the sum of \$316,016.80 for interest on the bonds of the Pacific Great Eastern Railway Company.

The reason the Bondholders called on the Government was that the Railway Company had made default owing to:

1. The giving away of its shares;
2. The misapplication of the monies raised on the Government Guaranteed Securities.

Honest enforcement of existing Statute Law would have protected the Province. The overriding of Public Statute by secret Order-in-Council has occasioned loss to the Province.

I am invoking the aid of the Supreme Court to secure replacement of this money. No argument being possible on the facts, I am charged with tying-up the affairs of the Province.

SECTION 4

As a result of questions asked in the Legislature it was ascertained that the contract for the construction of the Pacific Great Eastern Railway was let: Contracts
without com-
petition

1. Without competition;
2. To one of the members of Foley, Welch & Stewart; and
3. At prices greatly in excess of the prices paid for similar work on Railways in adjoining territory and under like conditions.

As the Province is paying for the construction of the Railway, I am asking for an Order of the Supreme Court for the taking of an account so as to fix the proper cost of the Railway, and relieve the Province from the necessity of paying to the promoters the prices they have fixed for their own profit. Again the only answer is that I am tying-up the affairs of the Province.

SECTION 5

Loan Act of 1916. By the Loan Act of 1916, it is proposed to lend Six Million Dollars to the Railway Company to be expended in the same old way, without competitive tenders.

Chief Engineer Gamble reports that it will cost upward of \$11,000,000.00 to complete the Railway.

To pay out more money before the rights of the Province have been determined, will only aggravate the situation.

To pay for work without competitive tenders on an inflated scale of prices is a wicked misappropriation of public funds.

The only answer to my action for relief from this condition of affairs is that I am tying-up the development of the Province.

SECTION 6

There is a grave question as to the day on which the Legislative Assembly came to an end. Acts of 1916
Legislature

On March 15th an Act purports to come into effect extending the life of the Assembly until June 1st, 1916. In the latter part of May, 1916, an Act was passed making radical changes in the Election Laws.

If these Acts are not valid the next Legislature will be an invalid or rather illegally constituted body without any constitutional functions or powers whatever, and the affairs of the Province will be completely disorganized.

The time to have this grave question determined is before an election has been held. There is every legitimate reason for an early decision, and to obtain it I caused to be written and delivered to the Attorney-General the following letter:—

June 6th, 1916.

The Honourable The Attorney-General,
Parliament Buildings, Victoria, B.C.

Sir:—

Re Brewster vs. Attorney-General

We have been instructed by the Plaintiff to communicate with you for the purpose of asking your co-operation in securing an early determination of the questions raised in this action.

The evidence bearing on these questions is contained in the Official Records and in the Journals of the House, in the Parliament Buildings, Victoria.

The Statutory Provisions directly applying to the action are:

Section 21 of the "Crown Procedure Act."

Sub-section (b) of Section 3, of the "Attorney-General Act."

The principal authorities which will be relied on by the Plaintiff are:—

Dyson vs. Attorney-General (1911), 1 K.B.410

Dyson vs. Attorney-General (1912), 1 Ch.158

Eastern Trust Company vs. Mackenzie, Mann & Co., Ltd. (1915), A.C. 750.

Cook vs. Deeks (1916), A.C. 554.

My instructions are to support any steps which will get the action before the Courts for early determination. To attain this object I am prepared to consent to any of the following courses:—

(1) Agree on a statement of facts compiled from the Official Records and submit the case on a Motion for Judgment

(2) Serve a Statement of Claim and abridge all Notices so that the Trial can be held within a few days.

(3) Agree to a reference of all the questions to the Court of Appeal for determination under the Statute for the reference of Constitutional questions; or

(4) Agree to a Reference under the "Public Inquiries Act" to a Board consisting of Chief Justice of British Columbia, the Chief Justice of the Court of Appeal and such other members of the Court of Appeal or of the Supreme Court Bench as you may select.

In view of the urgent necessity for an authoritative and final determination of the question raised in this action, at the earliest possible date, my instructions are to ask you for an early reply.

I have the honour to be, Sir,

Your obedient servant,

(Signed) H. C. HALL.

SECTION 7

My action has not been brought for political reasons. Had I been content to follow the line of least resistance, I would not have undertaken the burden and responsibility of litigation. The absolute conviction that by reason of my holding the position of Leader of the Liberal Party of British Columbia, there was cast upon me the duty of taking every possible step to safeguard the interests of every resident of this Province, irrespective of political adherence, has compelled me to have recourse to the only Tribunal having jurisdiction to deal with the grave questions which have important bearing upon the Provincial Credit and Provincial Welfare.

General
Reasons

Yours truly,

H. C. BREWSTER,

Leader Liberal Party.



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