62. 1933

No 40 of 1933.

In the Privy Council

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA

BETWEEN:

MERRILL RING WILSON LIMITED et al

(Plaintiffs) Appellants,

AND:

WORKMEN'S COMPENSATION BOARD

(Defendant) Respondent.

CASE FOR THE RESPONDENTS.

CASE FOR THE RESPONDENT

1. Apart from a question as to the form and extent of relief to be given, in case the Appellants are successful in this appeal, the sole question involved in this appeal is whether or not assessments made by The Workmen's Compensation Board under the Workmen's Compensation Act, R.S.B.C., 1924, Chapter 278, for the purpose of raising funds for medical aid, or charges made by the Board against funds on hand in lieu of such assessments, must be so made that all employers liable under the Act shall be assessed at the same rate upon the amount of their pay-rolls, without regard to the fact that some classes of occupations are more hazardous than others; and that, therefore, such occupations are a greater drain on the Accident Fund than other occupations.

2. The Appellants support the affirmative of this proposition. The Respondent supports the negative thereof; and submits that the Board has a right to make the assessments for the purpose of medical aid in such manner that the burden shall be borne by the several classes of industries contributing thereto in proportion to the hazard of the several employments, and, therefore, in proportion to the probable claims of the several classes of industries on the Accident Fund.

3. The answer to the above mentioned proposition must, in the final analysis, depend upon the construction of the relevant sections of the Workmen's Compensation Act. These sections will hereafter be considered in detail. But, before referring to the Act, it is useful to refer to certain admitted facts, namely:—

Record p. 25, lines 17 to 37. Record p. 59, line 1 to p. 60, line 16. Record p. 33, lines 7 to 12. Record p. 10, lines 20 to 23. Record p. 58, lines 31 to 39.

(a) It is admitted that the logging industry is an employment of a hazardous nature. The risk of accident, and, therefore, the risk of calls being made upon the Accident Fund for medical aid, is much greater in that occupation than in many other occupations. In one industry there has been no accident for several years, and therefore there has been no assessment for several years as against that industry. In the logging industry the cost of accidents was so high that the assessments levied to pay compensation in respect thereof proved to be insufficient. The Appellants' auditor, who examined the books of the Board, admits, in his report, that it would be manifestly unjust to charge workmen in industries which are not hazardous the same rate of assessment for medical aid as in the more hazardous industry of logging. If it is unfair to charge workmen in non-hazardous occupations at the same rate as is charged in hazardous occupations, it must also be unfair to charge employers in non-hazardous occupations at the same rate as in hazardous occupations.

(b) It is admitted that in respect of all compensation, other than medical aid, the policy of the Workmen's Compensation Act is that assessments should be made on the several classes of industries so that the burden will be borne by each class according to the hazard; that is, each class shall so contribute to the Accident Fund that the assessments made on that class will provide payment of the compensation payable by the Board in respect of all accidents occurring in that class.

4. It is, therefore, submitted that the method of assessment propounded by the Appellants would be most unfair and unjust, and would be contrary to the general policy of the Act; and, therefore, such construction of the Act should not be adopted unless the Act contains language which irresistibly leads the Court to the conclusion that such was the intention of the Legislature. If the language used in the Act is capable of a more equitable construction, it is submitted that such other construction should be adopted.

5. Turning now to a consideration of the Act, Section 2 reads in part as follows:

"2. In this Act, unless the context otherwise requires:—

'Accident Fund' shall mean the fund provided for the payment of compensation, outlays and expenses under Part I.

'Compensation' shall include medical aid."

6. Section 7 in part is as follows:

"7. (1) Where, in any industry within the scope of this Part, personal injury by accident arising out of and in the course of the employment is caused to a workman, compensation as provided by this Part shall be paid by the Board out of the Accident Fund."

7. Section 23, subsection (1) is as follows:

"23. (1) In addition to the other compensation provided by this Part, the Board shall have authority to furnish or provide for the injured workman such medical, surgical, and hospital treatment, transportation, nursing, medicines, crutches, and apparatus, including artificial members, as it may deem reasonably necessary at the time of the injury, and thereafter during the disability to cure and relief from the effects of the injury, and the Board shall have full power to adopt rules and regulations with respect to furnishing medical aid to injured workmen entitled thereto and for the payment thereof."

Subsection (4) of this Section provides that, subject to the conditions therein mentioned, employers may obtain the approval of the Board to a plan for providing their own medical aid to their employees.

8. Section 28 in part reads as follows:

"28. For the purpose of assessment in order to create and maintain a fund, to be called the 'Accident Fund,' for the payment of the compensation, outlays, and expenses under this Part all industries within the scope of this Part shall, subject to sections 29 and 30, be divided into the following classes:"

Then follows a list of the classes, the logging industry being Class No. 1. Under the powers contained in the Act, the Board have subdivided Class 1, logging west of the Cascades being subclass 2 of Class 1.

R.S.B.C. Cap. 278, sec. 35 and 43.

9. The whole object of dividing industries into classes is so that each class may contribute to the Accident Fund such sum as may be sufficient to meet the costs of accidents occurring in that class. This is desirable, because in some classes the risk of accident is greater than in others, and it would therefore be unfair to require a non-hazardous industry to contribute at the same rate of assessment as a more hazardous one.

10. In construing Section 28, above quoted in part, bearing in mind that compensation includes medical aid, and leaving out matters that are not material to the matter now under consideration, we may insert, instead of the word "compensation" in the part of Section 28 above quoted, the words "medical aid," and the section would then read:

> "For the purpose of assessment in order to create and maintain a fund, to be called the 'Accident Fund,' for the payment of the medical aid . . . . all industries within the scope of this Part shall, subject to Sections 29 and 30, be divided into the following classes:"

We have here, therefore, a definite statement that for the purpose of assessment in order to raise money for medical aid (among other things), all industries are divided into classes. There can be no question that the sole purpose of the Act in dividing industries into classes is so that each class may be assessed at the rate proportionate to the probable amount of its claims on the Accident Fund. It is, therefore, submitted that the question involved in this appeal is answered in favour of the Respondent's contention in Section 28 of the Act.

11. Section 30 reads in part as follows:

> "30. The Board shall assign every industry within the scope of this Part to its proper class;".

Section 31 requires all employers to furnish to the Board a statement of their estimated pay-rolls.

12. Section 32 reads in part as follows:

> "32. (1) For the purpose of creating and maintaining an adequate Accident Fund, the Board shall every year assess and levy upon and collect from the employers in each class by an assessment or by assessments made from time to time rated upon the pay-roll, or in such other manner as the Board may deem proper, sufficient funds, according to an estimate to be made by the Board:—

"(a) To provide in connection with Section 33 a special fund to meet the cost of medical aid:

(b) To meet all other amounts payable from the Accident Fund under this Part during the year:

(c) To provide a reserve by way of a contingent fund in aid of industries or classes which may become depleted or extinguished:

(d) To provide in each year capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years in respect of all accidents which occur during the year; and

(e) To provide a reserve fund to be used to meet the loss arising from any disaster or other circumstances which, in the opinion of the Board, would unfairly burden the employers in any class."

Under this Section the Board could, it is submitted, make one assessment sufficient to provide all the requirements of the Accident Fund. The reference to Section 33 in clause (a), referring to medical aid, above quoted, is necessary, because that Section provides that part of the money required for medical aid shall be raised by a deduction of one cent per day from the wages of workmen, and because employers having their own approved plans for medical aid are exempt from the assessment for medical aid. The funds required for medical aid are raised under Section 32, subject to the qualifications of Section 33.

13. It is submitted that Section 32 is the dominant section of the Act with regard to the making of assessments for medical aid. It is the section which authorizes the making of assessments. Sevtion 33, hereafter mentioned, merely deal with the proportion of moneys required for medical aid which are to be contributed by workmen and employers respectively, and exempts from contribution towards medical aid those employers, who, with the approval of the Board, have established their own scheme of medical aid; and allows the Board, instead of making an assessment for medical aid, to charge the amount against the funds in hand of the several classes. If there should be any conflict between Section 32 and Section 33 (it is submitted there is none), Section 32 is the governing section, because that is the section authorizing the assessment to be made.

14. The first purpose mentioned in Section 32, for which the assessments are to be made, is for the purpose of medical aid. The assessments are to be made "in each class." Therefore, we

have it demonstrated that the assessments for medical aid are to be made by classes. As before pointed out, the only purpose of dividing the industries into classes is so that each class will be assessed according to its hazard. Therefore, this section shows clearly, it is submitted, that medical aid is intended by the Act to be borne by the several industries according to the hazard of that industry.

15. The section then proceeds to provide that the assessment may be rated,

> "upon the pay-roll, or in such other manner as the Board may deem proper."

These words, in the clearest way, show that the Board is not required to make assessments for medical aid according to the pay-roll, but may choose some other mode of assessment. The mode of assessment is left to the discretion of the Board. It follows that the Board is not required to adopt two different methods of assessment to maintain the Accident Fund, from which all benefits under the Act (including medical aid) are paid. The wide discretion vested in the Board is shown by Section 74 of the Act, which reads in part as follows:

> "74. (1) The Board shall have exclusive jurisdiction to inquire into, hear, and determine all matters and questions of fact and law arising under this Part, and the action or decision of the Board thereon shall be final and conclusive and shall not be open to question or review in any Court, and no proceedings by or before the Board shall be restrained by injunction, prohibition, or other process or proceeding in any Court or be removable by certiorari or otherwise into any Court:".

16. Section 32 also clearly shows that the assessment for medical aid may be part of an assessment for other compensation provided by the Act; and may therefore be raised in the same manner and on the same basis as moneys required for the other purposes. As the moneys required for other purposes are admittedly raised according to the hazard of each employment, it is submitted that moneys required for medical aid can be raised in the same way. It would be impossible, or, at least, extremely inconvenient, to make one assessment for all purposes, including medical aid, on one basis so far as medical aid is concerned, and on another basis as far as other purposes are concerned. It is submitted this section is quite inconsistent with the Appellants' contention that moneys required for medical aid must be assessed according to pay-rolls at a uniform rate against all classes.

17. Subsection (2) of Section 32 is as follows:

"(2). Assessments may be made in such manner and form and by such procedure as the Board may deem adequate and expedient, and may be general as applicable to any class or sub-class, or special as applicable to any industry or part or department of an industry."

The word "assessments" includes assessments for medical aid, as mentioned in item (a) of the first clause of Section 32. Thus we have it provided that assessments for medical aid may be general as applicable to any class or sub-class, or special as applicable to any industry or part or department of industry. This section should be borne in mind when we come to the consideration of Section 33.

18. Section 33, subsection (1) provides in substance that the workman shall contribute one cent per day towards medical aid. It is submitted that no inference should be drawn from the fact that this contribution by workmen is made at a uniform rate in all employments that the Act contemplates a payment by employers at a uniform rate. The contribution by workmen is merely nominal. The amount could hardly be less than one cent per day in the least hazardous employment. But the employers contribute the whole cost of medical aid except the nominal assessments against workmen. Section 33, sub-section (2) is as follows:

"33. (2) The moneys received by the Board under subsection (1) shall form a part of the Accident Fund, and shall constitute a special fund to be used only in defraying the cost of medical aid. Such additional amounts as are required from time to time to meet the cost of medical aid shall be provided by the Board *by assessment upon employers generally* in all industries within the scope of this Part, except in respect of employments embraced in any plan for providing medical aid approved by the Board under subsection (4) of section 23. For the purpose of levying and collecting assessments under this subsection, the Board may charge the additional amounts required to meet the cost of medical aid against the funds to the credit of the several classes in such a manner as, on the annual adjustment of assessments under this Part, will result in a general assessment of such additional amounts upon those employers only who are liable to assessment under this subsection."

The last sentence above quoted was introduced into the Act by an amendment made in 1919. It is submitted that the words

"assessment upon employers generally"

do not necessarily mean that the assessment shall be levied at an equal rate on all employers. The word "generally" refers, not to the amount or rate of assessment on any employer or class; but rather it refers to the extent of the assessment, that is to say, to the fact that all employers must contribute thereto, except those specially excepted. It is submitted that the assessment here referred to is the assessment for medical aid authorized by Section 32.

20. It should be noted that the last sentence of this subsection is permissive, and not obligatory. The Board "may" charge, etc., but they are not obliged to do so. Assuming, therefore, for the moment, a proposition which the Respondent vigorously disputes, that, if the plan provided by this last sentence were adopted by the Board, it would involve an assessment at a uniform rate against all industries within the Act without regard to classes, it is to be observed that the Board is not obliged to act under this last sentence. There is nothing in Section 33 which prevents the Board from levying the amounts under Section 32 by an assessment for the specific purposes of medical aid; or for that purpose in combination with the several purposes mentioned in Section 32. Section 32 deals with the making of assessments. It is submitted that the assessment referred to in Section 33, subsection (2) is the assessment authorized by Section 32; and that the last sentence of Section 33, subsection (2), deals, not with assessments to be made by requiring a payment to be made by employers, but with an alternative means of providing the money, namely, charging the additional amounts required against funds to the credit of the several classes. The last sentence of Section 33, subsection (2), is merely machinery for providing, without any assessment made specifically for medical aid, the money which is authorized to be raised by assessment by Section 32 as modified by the earlier part of Section 33. The whole of Section 33, subsection (2), does not, it is submitted, contemplate the levying of a specific payment to be made by employers, other than the assessment authorized to be made under Section 32, but it authorizes the charging of the amount required against the funds of the several classes. It is submitted that Sections 32 and 33 should be construed so as to produce the same result; but, in any case, the right to make assessments under Section 32, it is submitted, is not cut down or modified by the additional right given under Section 33, subsection (2), to charge the amounts required to be raised by the Board from employers against the funds in hand of any of the several classes, instead of making an assessment for the purpose of medical aid under Section 32.

21. Leaving out the last sentence contained in Section 33, subsection (2), which, as has just been pointed out, is permissive only, the Act, in Section 32 and Section 33, provides all machinery necessary for the raising of funds for medical aid, and authorizes the levying of assessments for the purpose according to classes. The Appellants, therefore, are not entitled to require the Board to avail itself of the right to,

> "charge the additional amounts required to meet the cost of medical aid against the funds to the credit of the several classes"

on the basis of the last sentence in Section 33, subsection (2), but the Board may act under the powers contained in Section 32.

22. But the fact that the Board could make assessments for medical aid on the basis of classes, under Section 32, is a strong reason for concluding that the Legislature, in providing, by the last sentence in Section 33, subsection (2), an alternative mode of providing the money for medical aid expenses, did not intend to depart from the principle laid down in Section 32, that medical aid moneys were to be raised on the basis of classes according to the degree of hazard.

23. But let us assume that the Board decides to act in the manner provided by the last sentence of Section 33, subsection (2). Moneys are then to be levied by charging,

> "the additional amounts required to meet the cost of medical aid against the funds to the credit of the several classes, in such manner as on the annual adjustment of assessments under this Part will result in a general assessment of such additional amounts upon those employers only who are liable to assessment under this subsection."

It is on these words that the principal argument of the Appellants is founded. The Appellants contend that a general assessment must be an assessment on all industries equally, and not according to the hazard of the industry. It is submitted that this argument is fundamentally unsound. An assessment may be general although it is not made at the same rate on all industries. The last sentence of Section 33, subsection (2), is directed to the point as to what industries are to be assessed; and it provides that all employers, except those having approved plans of their own for medical aid, are to contribute. That is the purpose of the sentence. It is not directed to the point as to whether all employers are to be assessed equally. That is not the purpose of the sentence. If the purport of the sentence were as alleged by the Appellants,

it would conflict with the provisions of the Act herein referred to, particularly Section 28 and Section 32, subsections (1) and (2).

24. It is submitted that the only duty cast upon the Board by subsection (2) of Section 33 is to make the necessary bookkeeping entries in such manner as, on the annual adjustment of assessments, will result in a general assessment of the additional amounts upon those employers who are liable for the cost of medical aid. Section 32 requires the Board to levy an assessment, in each class, in every year, of moneys required. The charging of the additional amounts required for medical aid against the funds to the credit of the several classes in the manner above described, therefore, results in a general assessment for medical aid on all employers in all industries within the scope of Part I of the Act.

25. The fallacy of the Appellants' argument that a general assessment must be an assessment against all employers on an equal basis may be shown by a simple illustration. There may be a general rain over the whole of England, but experience has shown that it is likely to rain more heavily at Seathwaite than at Buxton, and more heavily at Buxton than at London. The rain is, nevertheless, a general one. The word "general" refers to the compass or extent and not to the degree or amount.

26. The moneys which the Board are authorized to charge against funds in hand are to be charged against the several classes, thus showing that the moneys ought not to be charged against all industries alike, but against classes. The Act generally deals with classes and not with individuals, although in Section 33, for the purpose of providing that certain members of the classes should be exempt from medical aid assessments, it became necessary to refer to "employers." The classes contribute at different rates. There would be no object in charging the moneys against classes unless each class stood by itself and bore its own load. To give the words above quoted the meaning contended for by the Appellants, one must read them as if the direction was that the moneys to be raised were to be charged, not against the funds in hand of the several classes, but against the pay-rolls of each employer, which is not what the Statute says. The Board is required to keep separate accounts of the amounts collected and expended in respect of every class. It is by means of an assessment of each class, under Section 32, that funds are collected for each class. Therefore,

Section 42.

"the funds to the credit of the several classes"

are obtained solely by virtue of and in the manner provided by Section 32.

27. Then the assessment for medical aid mentioned in the last sentence of Section 33, subsection (2), may be made by charging the additional amounts required,

> "in such manner as, *on the annual adjustment of assessments under this Part,* will result"

etc. The annual adjustment of assessments is provided for by Section 43, subsection (1) of which was as follows:

> "43. (1) On or before the first day of March in each year the amount of the assessment for the preceding calendar year shall be adjusted upon the actual requirements of the class and upon the correctly ascertained pay-roll of each industry, and the employer shall forthwith make up and pay to the Board any deficiency, or the Board shall refund to the employer any surplus, or credit the same upon the succeeding assessment as the case may require."

The necessity of the annual adjustment of rates arises from the fact that the accident experience of the preceding year may show that the rates assigned to the several employments in that year under Section 35 may be too high in some employments and too low in others. At the beginning of the year it is not possible for an employer to know exactly what will be the amount of his pay-roll. Nor is it possible to tell exactly what will be the requirements of the class. It will be noted that Section 43 expressly provides that the assessments are to be adjusted annually upon the actual requirements of the class. The whole object of division of industries into classes is because the hazard in different industries differs, and the requirements of one class may be more than those of others; therefore, assessments should be made according to the hazard. Therefore, we now see that the "charge" for medical aid mentioned in the last sentence of Section 33, subsection (2), is to be made subject to Section 43, that is to say, is to be made according to the hazard of the employment in each class, which necessarily means that the assessment is not to be made at the same rate on all employers. If the argument for the Appellants were adopted, it would involve an entire disregard of the words in the last sentence of Section 33, subsection (2), that the assessment for medical aid is to be made,

> "in such manner *as, on the annual adjustment of assessments under this Part,* will result"

etc.

28. But Section 33, subsection (2), as construed by the Respondent, is in entire harmony with all the other sections of the Act. Section 35 of the Act provided:

"35. The Board shall establish such sub-classifications, differentials, and proportions in the rates as between the different kinds of employment in the same class as may be deemed just; and where in the opinion of the Board any particular industry is shown to be so circumstanced or conducted that the hazard differs from the average of the class or subclass to which the industry is assigned, the Board shall confer or impose upon such industry a special rate, differential, or assessment to correspond with the relative hazard of that industry; and for such purpose may adopt a system of scheduled rating in such a manner as to take account of the peculiar hazard of the individual plant or undertaking of each employer."

It is submitted that this section is just as much applicable to assessments for medical aid as it is to assessments for other purposes. When one bears in mind that assessments for medical aid may be part of a larger assessment for other purposes besides medical aid, this is increasingly apparent.

29. On the trial the Plaintiff's (Appellants) claim for an injunction restraining the Board from enforcing payment of two specific assessments was dismissed. These assessments were made on the basis which Appellants claim is not authorized by the Act. There was no appeal from that part of the judgment; the appeal was limited to a claim for a declaration against the Board that assessments for medical aid purposes should be made on the basis for which the Appellants contended. It is, therefore, now res judicata that Appellants are not entitled to an injunction restraining the Board from authorizing the two specific assessments levied according to the principles which the Appellants contend are not authorized by the Act. But, if the Appellants' contentions are correct, they would have been entitled to the injunction claimed. The judgment dismissing the claim for an injunction and mandamus can be correct only if the contentions of the Board as to the principle on which assessments for medical aid should be made are correct. It is, therefore, submitted that the judgment on the trial, dismissing the claim for an injunction, not appealed against, estops the Appellants from now putting forward the contention that the Board is not entitled to make assessments for medical aid on the basis on which the two assessments, held to be valid, were made.

Record p. 38, line 19.

Record p. 39, line 1 to 10.

30. If the contention of the Board as to the construction of the Act is wrong, it is submitted that this is not a case in which a declaratory judgment ought to be made. It is submitted that the practice of the Court is not to make a judgment declaring that

a proposed defendant is not liable on a suggested cause of action, but rather to wait till the suggested cause of action is sued on, when judgment can be given in a concrete case. *Guaranty Trust Company* vs. *Hannay* (1915), 2 K.B., 536, where Mr. Justice Pickford, at pages 564-5 stated:

> "I think that a declaration that a person is not liable in an existing or possible action is one that will hardly ever be made, but that in practically every case the person asking it will be left to set up his defence in the action when it is brought."

Applying this principle, if the Board's method of raising moneys for medical aid purposes is not authorized by the Act, the Appellants can resist payment of specific assessments made on such unauthorized basis. Therefore, a declaratory judgment is not necessary for the protection of the Appellants' rights, and, it is submitted, that the Court, in the exercise of its discretion, should refuse to make any declaratory judgment. There is more reason to apply this principle in this case, because the Appellants' claim for an injunction in respect of the specific assessments in question in the action, and the Appellants' claim for a mandamus, were dismissed by the trial judge, and there has been no appeal from the judgment of the trial judge on these points.

31. If the Appellants were held to be entitled to a declaratory judgment, as claimed, it is submitted that the Appellants are not entitled to any consequential relief, account, or repayment in respect to payments heretofore made by them in respect of assessments for medical aid. The time to contest the validity of assessments is before payment, and, the assessments having been paid without

> "the compulsion of urgent and pressing necessity, or of seizure, actual or threatened, of his goods"

(using the words of Lord Reading, C.J., in *Maskell* vs. *Horner,* cited below), cannot be recovered back.

Brisbane vs. *Dacres* (1813), 5 Taunton, 143.

Slater vs. *Burnley Corporation* (1888), 4 T.L.R., 632.

Slater vs. *Burnley Corporation* (2), (1889), 53 J.P., 535.

William Whitely Ltd. vs. *Rex,* 26 T.L.R., 19.

Akt. Damskibs, Steinstad vs. *Pearson* (1927), 43 T.L.R., 531.

Moore vs. *Vestry of Fulham* (1895), 1 Q.B., 399.

Maskell vs. *Horner* (1915), 3 K.B., 106.

Benjamin vs. *Elgin County,* 26 Upper Canada Q.B., 660.

Austin vs. *Simcoe,* 22 U.C.Q.B., 73.

Bethune vs. *The King,* 26 O.L.R., 117.

Bain vs. *Montreal,* 8 S.C.R., 252.

Cushen vs. *Hamilton,* 4 O.L.R., 265.

32. It is submitted that it would be manifestly unjust to grant this relief now, after the Board have expended the money, in the years subsequent to the year in which payments were made; as the employers in the class may be very different from the employers in the year in which the payments were made, and it would probably now be impossible to make readjustment of assessments on a new basis.

33. A further objection to the granting of any such relief is that it would be in effect an order for payment of money out of the Consolidated Revenue Fund of the Province, which is an order to which the Appellants are not entitled under any circumstances. *Rattenbury* vs. *Land Settlement Board* (1929), S.C.R., 52 at 63, per Newcombe, J.

R.S.B.C. Cap. 278, section 53.

34. It is submitted that the Board in an instrumentality of the Crown. The funds of the Board are in the hands of the Minister of Finance, and are part of the Consolidated Revenue Fund of the Province. The members of the Board are appointed by the Lieutenant-Governor-in-Council. The Board is a corporation, but that does not make any difference. *Quebec* vs. *Moore* (1924), S.C.R., 540, per Duff, J., at page 551.

R.S.B.C. Cap. 278, section 63.

It is therefore submitted that this action is not maintainable without the fiat of the Attorney-general.

"C. W. CRAIG,"

of Counsel for Defendant (Respondent).

No 40 of 1933.

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On Appeal from the Court of Appeal for British Columbia

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(Plaintiffs) Appellants,

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(Defendant) Respondent.

Case for Respondent

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