

PETITION.

To the Honourable the Speaker and Members of the Legislative Assembly of the Province of British Columbia, in Parliament assembled:

The humble petition of the Corporation of the City of Vancouver sheweth:—

1. That on the 24th day of September, 1892, your petitioners submitted to the ratepayers entitled to vote on money by-laws, a by-law numbered 159, authorizing your petitioners to borrow the sum of \$300,000 00 as a bonus for the Burrard Inlet and Fraser Valley Railway Company, a Company having a terminus, or intending to have its terminus, in the City of Vancouver.

2. The said by-law was approved by a majority of 130, and was afterwards duly passed by the Council and advertised in the British Columbia Gazette of the 28th day of September, 1892.

3. The said by-law was afterwards attacked on the 11th day of October, 1892, upon a motion to quash upon the following grounds:—

(1.) That the voters' list upon which the vote upon the said by-law took place was based on a wrong assessment roll, and was not the proper list.

(2.) That the by-law as published and finally passed contained material misstatements, amongst others a misstatement that an agreement between the Burrard Inlet and Fraser Valley Railway Company, of the one part, and the Northern Pacific Railway Company and the Seattle Lake Shore and Eastern Railway Company, of the other part, which is set out in full in the said by-law, was signed by the parties thereof, whereas the same was not signed by the parties thereof.

(3.) That the said by-law is passed upon and depended upon an agreement which is unsigned and incomplete, and is in fact no agreement, or was unsigned at the date of voting.

(4.) That the said by-law does not comply with sub-section (8), of section 104, of the "Municipal Act, 1892," especially the condition referred to not inserted in that by-law.

(5.) That the said by-law does not fix the said special rate to be levied in each year for the purpose of raising the sum necessary for the payment of the sinking fund and interest.

(6.) That the said by-law does not provide for the raising of the annual sum sufficient to meet the debt when due, and does not provide when the debentures to be issued under such by-law shall be issued and dated, and is uncertain and vague.

(7.) That the voters' list upon which the vote on the said by-law took place was insufficient and incomplete, and that names were improperly added thereto after such voting had begun.

(8.) That the revised assessment roll on which the said voters' list was based was not revised according to the provisions of the "Vancouver Incorporation Act, 1886," and amendments thereto, and was not a legally revised assessment roll.

(9.) That the said by law is *ultra vires* of the Corporation of the City of Vancouver.

(10.) That the said by-law does not comply with the requirements of the "Vancouver Incorporation Act, 1886," and the amendments thereto, and the "Municipal Act, 1892," and is illegal.

4. The motion to quash the said by-law came on to be heard before the Honourable Mr. Justice McCreight, Judge of the Supreme Court of British Columbia, when the allegations of fact contained in the aforesaid objections were found against the parties moving to quash the said by-law, the other objections over-ruled, and the by-law upheld.

5. An appeal was thereupon taken from the judgment of Mr. Justice McCreight to the Divisional Court, which appeal is now pending.

6. While believing the by-law to be valid, your petitioners thought it more prudent to avoid litigation by passing another by-law not open to the objections urged against the said by-law, and as in argument one of the chief grounds of objection was that the voters' lists were imperfect, it was thought expedient to take the opinion of the ratepayers by submitting two by-laws identical in language to be voted upon by voters divided into two classes. Both by-laws were approved by the ratepayers by largely increased majorities, namely, No. 166 by a majority of 348, and No. 167 by a majority of 363, and the said by-laws received such assent of the ratepayers on the 10th day of December, 1892, and were published in the British Columbia Gazette of the 15th day of the said month.

7. On the 19th day of December, 1892, His Honour the Lieutenant-Governor in Council, by an Order in Council bearing date on that day, gave his sanction to the passing, by the said Corporation, of the said two by-laws, pursuant to the provisions of section 113 of a general Municipal Act, 1892.

8. By-laws 166 and 167 were afterwards attacked solely upon the grounds:—

(1.) That the said section of the "Municipal Act, 1892," authorizing the repeal of a money by-law, on obtaining the consent of His Honour the Lieutenant-Governor in Council, did not apply to the City of Vancouver.

(2.) That the Vancouver Act of Incorporation did not permit the handing over the debentures provided for by the said by-law to the said railway company; that they should have been disposed of by the said Corporation to the City of Vancouver and the proceeds in cash handed over to the said railway company.

9. The Honourable Mr. Justice Drake, another of the Judges of the Supreme Court of British Columbia, before whom the motion to quash was argued, upheld the by-law, and an appeal from his judgment was also taken to the Divisional Court, which said appeal is likewise now pending.

10. Your petitioners show that the objections taken to the validity of the said by-laws are purely technical, and really rest solely upon the alleged defects in the said charter of the City of Vancouver and its amending Acts, which defects had not theretofore attracted the attention of the said Corporation, if indeed they exist, and your petitioners submit that if such defects do in fact exist, the said Corporation is plainly entitled to have them remedied by legislation of your Honourable House, and that it is not either just or expedient, in view of two separate votes of the ratepayers, that the said Corporation should be put to the serious expense and delay of having a third taken, the issue of which cannot be doubted.

11. The aforesaid prayer of your petitioners arises from the fact that the capital for the construction of the said railway, including the bridge across the Fraser River, which capital it is estimated will exceed the sum of \$1,000,000.00 over and above the said bonus, is to be contributed by capitalists residing within the United States of America, and they have represented to your petitioners that, inasmuch as they are not familiar with the laws of this Province, they will not proceed with the construction of the said railway until the validity of the said debentures shall have been placed beyond question, and this cannot be done except by a decision of the Supreme Court of Canada, or perhaps of the Judicial Committee of the Privy Council in England, otherwise than by granting the prayer of this petition.

12. The financial arrangements for the construction of the said railway have been completed, and the company is now ready and waiting to proceed with such construction, and complete the same as rapidly as possible, but unless the prayer of this petition be granted and an end put to the litigation hereinbefore referred to, which otherwise would be protracted for a lengthy and uncertain period, there is danger that the said capitalists will withdraw from the said enterprise, which your petitioners believe and submit is apparently the object of this litigation.

13. The ratepayers entitled to vote upon such by-laws as those referred to were so keenly interested in securing the construction of the said railway in a manner provided for by the said by-laws, that after the passing thereof and in proceeding with the election of the Council for the present year, the question of carrying out the provisions of the said by-laws was made the chief question as regards the selection of the said Council, and as the result the said Council were and are pledged to carry out the provisions of the said by-laws accordingly,

14. The citizens of the City of Vancouver have thus on three several occasions, twice by a vote of the property holders, and again by the general body of citizens, the large majorities expressed their wish that the bonus provided for by the said by-law should be granted accordingly, to the end that the work of constructing the said railway should be proceeded with without any delay.

15. For the purpose therefore of putting an end to the litigation, and permitting the speedy construction of the said railway, and giving effect to the thrice expressed wish of the citizens of Vancouver, your petitioners humbly pray—

That your Honourable House will be pleased to give leave to present a petition praying that an Act may be passed validating the said By-Law No. 166.

And your petitioners, as in duty bound, will ever pray, &c.

[L.S.]

F. C. COPE, *Mayor*.

THOS. F. MCGUIGAN, *City Clerk*.

VICTORIA, B.C. :

Printed by RICHARD WOLFENDEN, Printer to the Queen's Most Excellent Majesty.