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VICTORY MEMORIAL GARDENS

v.

THE CORPORATION OF THE DISTRICT OF SURREY

Supreme Court of British Columbia (No. X897/67)

Before: MR. JUSTICE T.W. BROWN

Vancouver, November 1, 1967

T.R. Braidwood for Victory Memorial Gardens
A.K. Thompson for The Corporation of the District of Surrey

Reasons for Judgment

At the outset of this hearing Mr. Braidwood took the preliminary objection that the stated case was not signed by the "Board" as, he argued, was required under the provisions of section 51 of the Act. Subsection (3) of that section says, ". . . the Board shall submit in writing. . .," and subsection (5) contains these words, "Where a case is stated, the secretary of the Board shall forthwith file the case." Here the case is signed as follows: "K. M. Beckett, Chairman."

The reasons of the Board are headed to show that the appeal was heard by Robert H. Green, Acting Chairman, and Fred M. Philips, member.

I give effect to the objection as the procedure is statutory, and there is nothing in the material before me to show that "K. M. Beckett" is the Chairman (of the Board), or that he had authority to sign for the Board, especially as the reasons show that he did not take part in the hearing. The point was also taken that there was nothing to show that the secretary had filed the case, but as it is filed in fact, and as the requirement is in the realm of administrative procedure, I think I may safely assume that it was properly done.

The appeal by way of stated case is dismissed with costs.