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## Four children clash with builder in struggle over their inheritance: [3\* Edition]

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### Abstract (summary)

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### Full Text

profile of William 'Bill' F.D. Loughheed

DRAW ASIDE the corporate veil and find four grown children suing their father in B.C. Supreme Court because they want their inheritance now.

The father is William (Bill) F.D. Loughheed. His four natural children are suing him in a case that started with what advisers told him was a prudent method of estate-planning, and a legitimate way of arranging his affairs to attract as little tax liability as possible.

If his children succeed in their claims against him, it could bring about complicated tax implications, the full result of which is still being disputed by tax experts.

At one point in the trial, which has been adjourned after two weeks of evidence, Loughheed's lawyer, Boyd Ferris, told court the case is "very complex. It's not what I could term a piece of ordinary litigation."

But the five-week adjournment granted by Justice H.A. Hollinrake to Jan. 23, is expected to promote a settlement, and an opportunity over the Christmas holidays to "get the family back together," according to Ferris.

If Loughheed bridges the generation gap, it could be as significant to him as any of the projects in his career as a builder.

THE COINCIDENCE of Lougheed Mall and Lougheed Village being located on a highway of the same name prompts most people to assume they all took their names from the same source. But the highway was named in honor of Nelson Lougheed, who died in 1944 and was not related to Bill Loughheed. Nelson Loughheed was B.C.'s Conservative public works minister in 1928 and promoted construction of the road to link Port Haney, where he owned a lumber mill.

The shopping mall, the apartment towers, the low-rise condominiums and the family-oriented Tudor Village across the highway, all bearing the same name, were developed by companies controlled by Bill Loughheed, his brother, Gordon Ellsworth Loughheed, and the late Jack Brown, of the Brown Bros. automotive firm.

The Great Depression scarred some people, but Loughheed told the court that it marked a Kitsilano schoolboy with a work ethic that still rules his life.

He set the foundation lines himself and sawed the window forms for his latest project, an apartment block at 17th and Duchess in West Vancouver, due for completion next month.

DURING HIS cross-examination by Rodney Massel, the children's lawyer, Loughheed was asked if he used one of the cabins on his Pender Harbor acreage for recreation.

"If that's what you call building and developing and working like a slave, yes."

"So, that's your recreation?" asked Massel.

"It's my vocation," said Lougheed.

"Your first love?" Massel persisted.

"I create," Lougheed said.

On direct examination, Ferris drew from the witness his background and the events surrounding the alienation from his children.

"I was a child during the Depression," he said, giving his birthdate as Dec. 30, 1927.

"My father was on the police force so we had a relatively good time of it, but I was aware of jobless men asking for handouts. I was certainly affected by it.

"The influence of those years gave me a lot of drive and ambition. I never wanted to be in that position."

A soft-spoken man, Lougheed had to hold the microphone to his mouth so that he could be heard while testifying.

He said he mowed lawns and worked at the post office after school, "mixed coal tar and lampblack and cut it with coal oil" in his job as an oiler with a roofer, and learned to use a hammer while working for a hardwood flooring company.

"I'd started my first house - actually a cabin - before I went to UBC."

His first city house was at 57th and Arbutus - "a thousand square feet and a basement" - built in the summer vacation. He said he built two or three houses a year while at the University of B.C. and before graduating with an arts degree in 1951, he and his brother had started building duplexes.

THEIR FIRST apartment block, a three-storey wood-frame at 855 East Broadway, cost them about \$2,000 for the land and \$25,000 to build, and sold for about \$60,000. Next, they bought a site in Kitsilano for \$7,000.

So it went through the 1950s, Lougheed said, buying, building, selling, and buying again. The addresses of his buildings covered the West End, Kitsilano and Kerrisdale.

Lougheed said he married his first wife, Gwendolyn, in 1956. A daughter, Lynda Carrie, was born July 25, 1957; son Michael William, July 6, 1958, son Chris William, April 13, 1962, and Laura Ann, Jan. 27, 1965.

He said he worked 12 to 14 hours a day, seven days a week. He and his brother also built their own family homes in West Vancouver.

When they met Brown and formed a business relationship, the objective changed from building and selling, to building and retaining as investments.

The government of then-premier W.A.C. Bennett had brought in estate duties and inheritance taxes that were providing accountants and tax lawyers with new challenges.

Lougheed said Brown advised him to look into it and as a result, he and his brother formed family holding companies in 1964 to avoid taxes in passing their estates onto their children.

Lougheed transferred his modest share of the business assets, \$167,500, to Lougheed Holdings Ltd., kept the voting non-participating shares himself, and put 8,000 non-voting participating shares into trust for distribution to his children when they reached age 21. His brother was trustee.

IN THE late '60s, his wife learned she had a brain tumor. She died in 1971 and Lougheed married his present wife, Norma, the next year, later adopting her daughter, Kelly Janine, born in 1962.

The provincial tax laws that sparked the 1964 incorporation were repealed in 1977, Justice Hollinrake was told.

"I knew the estate was growing at such a rapid rate," Lougheed said, "and I was concerned that two children, Laura and Kelly, might not be provided for if they didn't come within the terms of the trust deed.

"Also, Norma being such a hard worker should share in it, and I also needed something for my old age. It was unfair that three children should end up with everything.

"I'd no idea that such growth could have taken place. It was beyond my imagination. From 1950 to 1964, I'd accumulated only \$167,500."

ASKED BY Ferris what that had now grown to, Lougheed said: "Millions!"

In August 1979, after about a year of consultations with an accountant and a tax lawyer, Lougheed implemented what is known as a "reverse freeze" on Lougheed Holdings Ltd. He formed a new company with his wife, Norbill Investments Ltd., and transferred assets then worth \$7.7 million from the holding company to Norbill, in exchange for preference shares redeemable at the same value.

The effect is that all growth since that time has gone to Norbill.

Also, only the directors of Lougheed Holdings, Lougheed and his wife, can exercise the option to redeem the preference shares in Norbill. As directors of Norbill, they have limited the total dividends paid to the holding company to \$12 a year.

Asked by Ferris if he had any other reasons for this action, Lougheed said he did.

THE CHILDREN of his first marriage "were not really developing the way I wished they had," he said.

"They seemed quite irresponsible. They were not doing well in their lives.

"They never really showed any interest in the business. They had a very short attention span."

He said he became fearful that with the lifestyle the oldest children were adopting in the 1970s, they might dispose of their shares or otherwise harm the enterprise.

The plaintiffs claim they were not informed of the "reverse freeze" or "rollover" in 1979 and learned of it later. In 1983, their uncle, the trustee, transferred the shares he held for them to the three oldest children, who had reached age 21.

The same year, a reorganization plan saw the windup of subsidiary companies and the Lougheed brothers and Brown split their holdings and parted company.

Lougheed's youngest natural child, Laura, received her shares from the trust in 1986. The same year, three legal actions were begun on behalf of the four children, but all are now being tried at once.

THE PLAINTIFFS claimed fraud, conspiracy and conversion of assets against their parents. But lawyer Massel withdrew these allegations during the trial, after he was allowed to read Lougheed's will as it was drawn up in 1979.

Its contents were not read in court, but a later witness, a lawyer, said he received instructions from Lougheed that his wife should be executor, with an income for life and power to encroach on the estate, and for an equal distribution of the residue to his five children, including his adopted daughter.

Ferris pointed out to the judge that "none of the plaintiffs has seen fit to give any testimony in the case."

He said Gordon Lougheed testified he was "not of a view there had been any wrongdoing at any time by Norma Lougheed." Ferris said anything in Massel's case to the contrary is "nothing but gross inferences with nothing tangible to support them."

Should the case not be settled during the adjournment, Massel is still asking the judge to find the 1979 transaction was illegal and to order a windup of Norbill and Lougheed Holdings.

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