

9, 1934

In the Privy Council

ON APPEAL FROM THE COURT OF APPEAL
FOR BRITISH COLUMBIA

BETWEEN:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED

(Defendant) Appellant,

AND:

VANCOUVER BREWERIES LIMITED

(Plaintiff) Respondent.

Record of Proceedings

MESSRS. LENNIE & McMASTER,
Solicitors for (Defendant) Appellant.

MESSRS. BLAKE & REDDEN,
17 Victoria St.,
London, S.W. 1,
Agents.

MESSRS. PATTULLO & TOBIN,
Solicitors for (Plaintiff) Respondent.

MESSRS. GARD, LYELL & Co.,
Leith House,
47 Gresham St.,
London, E.C. 2,
Agents.

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No. V 437/32.

RECORD

*In the Supreme
Court of British
Columbia*

No. 1

Endorsement
on Writ
Mar. 8, 1932**In the Supreme Court of British Columbia**

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff,

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant.

No. 1

10

ENDORSEMENT ON THE WRIT

The Plaintiff's claim is for a declaration that a certain Agreement dated the 5th day of December, 1927 and made between the defendant Company of the first part and the plaintiff Company of the second part is a valid and subsisting Agreement and enforceable against the defendant and that the defendant is liable to perform and observe all the covenants on its part therein contained.

The Plaintiff's claim is also for an injunction to restrain the defendant from engaging in or carrying on the business of manufacturing, brewing, selling or disposing of beer, ale, porter or 20 lager beer, and from brewing, manufacturing or selling any article or articles made in imitation thereof other than Sake, either by itself or through its servants or agents, or otherwise and also from being concerned directly or indirectly either as principal, agent, manufacturer, servant, financier or otherwise, in any brewing business other than that of Sake, in breach of the terms of the said Agreement dated the 5th day of December, 1927.

Further or in the alternative, the plaintiff's claim is for a declaration that the plaintiff is the assignee for value of the 30 Brewer's License referred to in the said Agreement, and of all renewals thereof so far as the same authorizes the manufacture and sale of beer, ale, porter or lager beer, or alternatively that the defendant holds the said License, and all renewals thereof, in trust for the plaintiff so far as the same authorizes the manufacture and sale of beer, ale, porter, or lager beer.

The plaintiff's claim is also for such further or other relief as to this Honourable Court may seem meet; and for costs.

RECORD

No. V 437/32.

*In the Supreme
Court of British
Columbia*

 IN THE SUPREME COURT OF BRITISH COLUMBIA

No. 2
Statement of
Claim
Mar. 8, 1932

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff,

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant.

Writ issued the 8th day of March, 1932.

10

 No. 2

STATEMENT OF CLAIM

1. The plaintiff is a Company incorporated under the laws of the Province of British Columbia having its registered office at 2700 Yew Street, in the City of Vancouver, in the said Province.
2. The defendant is a Company incorporated under the laws of the said Province, having its registered office at 1445 Powell Street in the said City of Vancouver.
3. By an agreement in writing dated the 5th day of December, 1927, and made between the defendant of the first part and the plaintiff of the second part, under their respective corporate seals, for the consideration therein mentioned the defendant assigned to the plaintiff all its right, title, interest, claim and demand in, to, or out of the goodwill of the Brewer's License under the Excise Act, being Chapter 51 of the Revised Statutes of Canada 1906 as amended by Chapter 26 of the Statutes of Canada 1921, held by the defendant or any renewal or renewals thereof except in so far as the same related to the manufacture, sale and distribution of Sake. 20
4. The defendant has obtained a renewal of the said License from time to time, and at the commencement of this action still held the same, and the defendant does not, and did not at any material time hold any other Brewer's Licence. 30
5. By the said agreement the defendant covenanted and agreed with the plaintiff that during a period of fifteen years from the date thereof it would not engage in nor carry on the business of manufacturing, brewing, selling or disposing of beer, ale, porter, or lager beer and would not brew, manufacture or sell any

article or articles made in imitation thereof other than Sake either by itself or through its servants or agents or otherwise.

6. By the said agreement the defendant further covenanted that at no time during the said period of fifteen years would it be concerned directly or indirectly either as principal, agent, manufacturer or servant, financier or otherwise in any brewing business other than that of Sake.

7. The defendant has informed the plaintiff that notwithstanding the said agreement it intends to extend its business in the Province of British Columbia and to manufacture and deal in lager and other beer and the defendant threatens and intends, unless restrained from so doing, to commit the aforesaid breach of the said agreement.

PARTICULARS:

(a) On or about the 18th day of February, 1932, at Vancouver, B.C., one Fritz Sick, a Brewer from the Province of Alberta, verbally informed Rudolph Samet, the Manager of the plaintiff Company, that he had acquired an interest in the defendant Company and also that the defendant Company intended invading the local field and was going into the lager and other beer business.

(b) The defendant is engaged in the construction of an addition to its main building which up to the present time has been used to brew Sake, and has assembled machinery and apparatus upon its premises suitable for and ordinarily used in the manufacturing of beer, and ready to be placed in the said building at 1445 Powell Street, Vancouver aforesaid.

(c) By a letter dated the 13th day of February, 1932, written by the defendant to the plaintiff, the defendant stated that it would contest the validity of the agreement referred to in paragraph 3 hereof at all times and further stated that it was its intention to exercise all the privileges granted to it by its licences regardless of the said agreement and to immediately proceed with the erection of a plant for that purpose.

8. The plaintiff was at the date of the hereinbefore mentioned agreement and still is actively engaged in the manufacture and sale within the Province of British Columbia of beer, ale, porter and lager beer.

9. The plaintiff says that if the defendant should commit the breach referred to in paragraph 7 hereof, of the agreement mentioned in paragraph 3 hereof it will cause the plaintiff serious and irreparable damage.

RECORD
 In the Supreme
 Court of British
 Columbia
 No. 2
 Statement of
 Claim
 Mar. 8, 1932
 (Contd.)

RECORD

*In the Supreme
Court of British
Columbia*

No. 2
Statement of
Claim
Mar. 8, 1932
(Contd.)

WHEREFORE the plaintiff claims:—

- (1) A declaration that the said agreement of the 5th day of December, 1927 is a valid and subsisting agreement and enforceable by the plaintiff against the defendant and that the plaintiff is liable to perform and observe all the covenants on its part therein contained.
- (2) An injunction to restrain the defendant from engaging in or carrying on the business of manufacturing, brewing, selling or disposing of beer, ale, porter, or lager beer and from brewing, manufacturing, or selling any article or articles made in imitation thereof other than Sake either by itself or through its servants or agents or otherwise and also from being concerned directly or indirectly either as principal, agent, manufacturer, financier or otherwise in any brewing business other than that of Sake in breach of the terms of the said agreement.
- (3) Further or in the alternative, a declaration that the plaintiff is the assignee for value of the Brewer's licence referred to in the said agreement, and of all renewals thereof, so far as the same authorizes the manufacture and sale of beer, ale, porter or lager beer, or alternatively that the defendant holds the said licence, and all renewals thereof, so far as the same authorizes the manufacture and sale of beer, ale, porter, or lager beer, in trust for the plaintiff.
- (4) Such further or other relief as to this Honourable Court may seem meet.
- (5) Costs of the action.

Place of Trial, Vancouver, B.C.

30

DATED at Vancouver, B.C., this 8th day of March, A.D. 1932.

PATTULLO & TOBIN,
Solicitors for the Plaintiff

DELIVERED by Pattullo & Tobin, whose place of business and address for service is 1404 Standard Bank Building, 510 Hastings Street West, Vancouver, B.C.,

To the Defendant,
And to

No. V 437/32.

RECORD

IN THE SUPREME COURT OF BRITISH COLUMBIA

*In the Supreme
Court of British
Columbia*

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff,

No. 3
Amended
Statement of
Defence
May 18, 1932

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant.

10

No. 3

STATEMENT OF DEFENCE AMENDED PURSU-
ANT TO ORDER OF THE HONOURABLE THE
CHIEF JUSTICE, MADE THE 17th DAY OF MAY,
A.D. 1932.

1. The defendant does not admit the allegations contained in paragraph one of the Statement of Claim filed and delivered herein.

20 2. The defendant admits the allegations contained in paragraph two of the said Statement of Claim and says that at the date of the alleged agreement referred to in paragraph three thereof its registered office, licence and manufactory were situate at 2235 Triumph Street in the City of Vancouver, British Columbia.

3. The defendant specifically denies each and every allegation of fact contained in paragraph three of the Statement of Claim filed and delivered herein.

3a. The defendant company never executed the alleged agreement of the 5th of December, 1927 referred to in paragraph 3 of the Statement of Claim filed and delivered herein.

30 3b. If the defendant ever executed the said alleged agreement (which is denied) the same was subsequently altered by the plaintiff or some person on its behalf in a material part, to wit, by erasing the name of the British Columbia Breweries (1918) Limited and substituting the name of the plaintiff company therefor without the knowledge, approval or consent of the defendant company.

RECORD
 In the Supreme
 Court of British
 Columbia
 No. 3
 Amended
 Statement of
 Defence
 May 18, 1932
 (Contd.)

3c. If the defendant company ever executed the document of the 5th of December, 1927 (which is denied) the same was a mere offer to the British Columbia Breweries (1918) Limited and was never accepted by that company.

3d. The defendant company did not at the time alleged or at all make any agreement with the plaintiff as alleged or at all.

4. The defendant admits the allegations contained in paragraph four of the said Statement of Claim.

5. The defendant specifically denies each and every allegation of fact contained in paragraph five of the said Statement of Claim. 10

6. The defendant specifically denies each and every allegation of fact contained in paragraph six of the said Statement of Claim.

7. The defendant does not admit the allegations contained in paragraph seven of the said Statement of Claim.

8. The defendant does not admit the allegations contained in paragraph eight of the said Statement of Claim.

9. The defendant does not admit the allegations contained in paragraph nine of the said Statement of Claim. 20

10. In answer to the whole of the said Statement of Claim the defendant says that if the parties ever assumed to enter into any such agreement or assignment as alleged in paragraph three of the said statement of claim (which the defendant does not admit but denies) the same is illegal, void and unenforceable.

11. The provisions of the "Excise Act" referred to in paragraph three of the said Statement of Claim now known as Chapter 60 of the Revised Statutes of Canada 1927, do not permit of (a) Licensees contracting in respect of the licenses issued to the defendant, or (b) The assignment of or trafficking in any of the privileges granted thereby. 30

12. The defendant further says that licenses issued under the said Act are personal to the Licensee and are not severable or assignable under the said Act or at all.

13. The alleged agreement referred to in paragraph three of the said Statement of Claim is contrary to the policy of the said "Excise Act" and is illegal and unenforceable by reason of the facts set forth in the previous paragraphs hereof.

14. The said alleged agreement if made at all, which is denied, was without the consent or approval of any officer of the Crown appointed under the said Act or any regulation thereunder and is therefore of no effect. 40

15. The alleged agreement is contrary to public policy, illegal, void and unenforceable as being:

(a) An unreasonable and unnecessary restraint of trade in respect of the manufacture and sale of articles of commerce.

(b) It has for its object the removal of a rival and a competitor and the establishment of a monopoly in the right to manufacture, brew, sell and dispose of beer, ale, porter and other articles of commerce capable of being so manufactured and sold by the defendant under the terms of the licenses issued to it under the provisions of the "Excise Act," being Chapter 60 of the Revised Statutes of Canada, 1927.

(c) It contravenes the provisions of Sections 496 and 498 of the Criminal Code of Canada and the sub-sections thereof in that it is designed to prevent or lessen competition in the manufacture and purchase and sale of articles which are a subject of trade and commerce.

16. The alleged agreement or assignment and the covenants therein contained are illegal as being in restraint of trade.

17. The covenants in the alleged agreement are too wide both as to time and space and are therefore unreasonable and unenforceable.

18. The alleged agreement purports to deal with the alleged goodwill of the defendant's brewer's licenses which at the time of the execution of the alleged agreement were posted in a conspicuous place in its manufactory at 2235 Triumph Street in the City of Vancouver aforesaid in pursuance of Section 29 of the said "Excise Act."

19. In the month of October A.D. 1931 the said licenses were transferred pursuant to the provisions of Section 24 of the said "Excise Act," Chapter 60 of the Revised Statutes of Canada 1927, to Lots 24 to 29 inclusive, Block 5, Subdivision "B," District Lot 182, City of Vancouver, being situate at the corner of McLean Drive and Powell Street, and the defendant says that the alleged agreement does not apply to the said new premises.

20. The defendant further says that the alleged agreement was entered into in furtherance of a conspiracy between the plaintiff and the Canadian Brewing & Malting Company Limited, the only other holder of a brewer's license in the City of Vancouver, to prevent and prohibit the manufacture and sale of beer, ale, porter or lager beer by any other person or company in competition with them or either of them and without the sanction or approval of the shareholders of the defendant company.

RECORD

*In the Supreme
Court of British
Columbia*

No. 3
Amended
Statement of
Defence
May 18, 1932
(Contd.)

RECORD
 In the Supreme
 Court of British
 Columbia

No. 3
 Amended
 Statement of
 Defence
 May 18, 1932
 (Contd.)

21. The alleged agreement was not authorized by resolution of the defendant company or its directors as required by paragraph 106 of the Articles of Association of the said defendant company and no consideration was paid to the defendant therefor.

22. The defendant further says that it has not yet contravened any of the terms of the said alleged agreement and that this action is therefore premature.

23. If the plaintiff and defendant ever assumed to enter into any such agreement as alleged in paragraph three of the Statement of Claim, such agreement is ultra vires both the plaintiff 10 and the defendant company.

DATED at Vancouver, B.C., this 18th day of May, A.D. 1932.

G. F. McMASTER,
 Solicitor for the defendant.

FILED AND DELIVERED this day by Glenholme Ferguson McMaster of the firm of Lennie & McMaster whose place of business and address for service is 901 Vancouver Block, 736 Granville St., Vancouver, B.C.

To the plaintiff,
 And to its Solicitors,
 Messrs. Pattullo & Tobin.

No. V 437/32.

RECORD

IN THE SUPREME COURT OF BRITISH COLUMBIA

*In the Supreme
Court of British
Columbia*

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff,

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant.

No. 4
Demand for
Particulars
Mar. 29, 1932

10

No. 4

DEMAND FOR PARTICULARS

TAKE NOTICE that the plaintiff requires particulars of the Statement of Defence herein, namely:

1. Particulars stating the grounds upon which it is alleged in paragraph 10 of the statement of defence that the agreement or assignment is "illegal," "void and unenforceable."

2. Particulars of paragraph 11 of the statement of defence stating where in the Excise Act the provisions are contained which it is alleged do not permit of:

- 20 (a) Licensees contracting in respect of the licenses issued to the defendant, and
- (b) The assignment of or trafficking in any of the privileges granted thereby.

3. Particulars identifying the section or sections of the Excise Act and the regulation or regulations under the Excise Act referred to in paragraph 14 of the statement of defense, which provide for the appointment of an officer of the Crown and for his consent or approval to agreements similar to the agreement mentioned in the said paragraph.

- 30 4. Particulars of the conspiracy alleged in paragraph 20 of the statement of defence showing when and where the same was entered into and between or by what persons on behalf of the plaintiff and Canadian Brewing & Malting Company Limited respectively and whether the same was entered into verbally or in writing and if in writing describing the document or documents and giving the dates and parties thereto.

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*In the Supreme
Court of British
Columbia*

No. 4
Demand for
Particulars
Mar. 29, 1932
(Contd.)

5. Particulars of paragraph 23 of the statement of defence stating the grounds upon which it is alleged that the agreement therein referred to is ultra vires the plaintiff and the defendant Company.

Dated at Vancouver, B.C., this 29th day of March, A.D. 1932.

PATTULLO & TOBIN,
Solicitors for Plaintiff.

To the Defendant,

And to Messrs. Lennie & McMaster,
its solicitors.

No. V 437/32.

RECORD

 IN THE SUPREME COURT OF BRITISH COLUMBIA

*In the Supreme
Court of British
Columbia*

BETWEEN:

 VANCOUVER BREWERIES LIMITED,
 Plaintiff,

 No. 5
 Particulars
 Pursuant to
 Demand
 April 4, 1932

AND:

 VANCOUVER MALT & SAKE BREWING COMPANY
 LIMITED,
 Defendant.

10

No. 5

 PARTICULARS DELIVERED PURSUANT TO
 DEMAND DATED 29th MARCH, A.D. 1932.

1. As to paragraph 1 of the Demand the defendant says that the grounds upon which it is alleged that the agreement or assignment referred to in paragraph 10 of the statement of defence is illegal, void and unenforceable are set forth in paragraphs 11 to 23 inclusive of the statement of defence.
- 20 2. As to paragraph 2 of the Demand the defendant says that the "Excise Act" contains no provision whatever for permitting licensees to contract in any manner whatever in respect of the privileges granted thereby as the whole Act indicates and in particular sections 193 to 204 inclusive, comprising Part 4 of the said Act and sections 10 to 137 inclusive, comprising Part 1 of the said Act.
- 30 3. As to paragraph 3 of the said Demand the defendant repeats the allegations contained in paragraph 2 hereof and further says that all licenses issued under the said Act are under the exclusive jurisdiction and control of the Minister by virtue of the provisions of section 10 thereof and the amendment thereto contained in section 2 of chapter 24, Revised Statutes of Canada, being an act to amend the "Excise Act."
4. As to paragraph 4 of the said Demand the defendant says:
 - (a) That no brewer's licenses existed in the Vancouver Excise area at the date of the alleged agreement other than those of the plaintiff and defendant and the Canadian Brewing & Malting Company Limited;

RECORD
 In the Supreme
 Court of British
 Columbia

No. 5
 Particulars
 Pursuant to
 Demand
 April 4, 1932
 (Contd.)

- (b) That the directors and shareholders of the plaintiff Company and the Canadian Brewing & Malting Company Limited were identically the same at the date of the alleged agreement;
- (c) That no further brewer's licenses have been issued under the said Act in respect of the said Vancouver Excise area since the date of the said alleged agreement;
- (d) That the Canadian Brewing & Malting Company Limited under the management of the same Board as the plaintiff were and are not, in fact, manufacturing in competition with the plaintiff at the date of the alleged agreement or at all; 10
- (e) The inference to be drawn from the terms of the alleged agreement sued upon and in conjunction with the above facts is that the Canadian Brewing & Malting Company Limited is refraining from carrying on the brewing business by reason of the alleged agreement in paragraph 10 of the statement of defence and the further inference is that there was a conspiracy between the plaintiff and the said Canadian Brewing & Malting Company Limited to prevent and prohibit the manufacture and sale of beer, ale, porter or lager beer by any other person or Company in competition with the plaintiff. 20
- (f) The further particulars demanded are entirely within the knowledge and possession of the plaintiff and not of the defendant.

5. As to paragraph 5 of the said Demand the defendant says that neither plaintiff or defendant Company has power contained in their respective memorandums of association to enter into such an agreement as is sued upon herein. 30

DATED at Vancouver, B.C., this 4th day of April, A.D. 1932.

LENNIE & McMASTER,
 Solicitors for the Defendant.

To the plaintiff, and to

Messrs. Pattullo & Tobin,
 its solicitors.

No. V 437/32.

RECORD

 IN THE SUPREME COURT OF BRITISH COLUMBIA

*In the Supreme
Court of British
Columbia*

BETWEEN:

VANCOUVER BREWERIES LIMITED,

Plaintiff,

AND:

 VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant.

 No. 6
Reply
Mar. 29, 1932

10

No. 6

REPLY

1. As to the whole of the Defence herein, the plaintiff joins issue except so far as this Reply may contain admissions.

2. As to paragraphs 11, 12 and 13 of the Defence the plaintiff will object that they disclose no answer to the statement of claim or any part thereof on the ground that the Excise Act does not contain any provision or provisions whatsoever in any way relating to or concerning the matters referred to in the said paragraphs or any of them.

20 3. As to paragraph 14 of the Defence the plaintiff will object that the same discloses no defence to this action inasmuch as the Excise Act does not, nor does any regulation thereunder, require the consent or approval of any officer of the Crown howsoever appointed to the alleged agreement or to any agreement whatsoever.

30 4. Further, and in the alternative, as to paragraph 14 of the Defence the plaintiff says that in or about the month of July, 1923, the defendant Company applied to G. A. Allen, the Collector, at Vancouver, B.C., under the Excise Act, Chapter 51, of the Revised Statutes of Canada 1906, for a Brewer's License under that Act, and was informed by the said Collector that such licence would be granted to the defendant if the Government of the Province of British Columbia gave its consent to the operation by the defendant of a Brewery.

40 5. Thereupon the defendant applied to the Attorney-General of British Columbia for such consent, informing him that the Memorandum of Association of the defendant excluded any powers to brew beer and that it would only make Sake. The said application and information were contained in a letter to the said Attorney-General dated the 12th day of July, 1923, and written by Frank A. Jackson, the solicitor for the defendant.

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6. Subsequently, it being ascertained that the said Memorandum of Association did not exclude powers to brew beer, the defendant by an undertaking in writing, undated, given to the said Attorney-General, in connection with its application for permission for a Sake brewery licence, agreed and undertook with the said Attorney-General as representing the Government of the Province of British Columbia, not to sell any malt or other product of the brewery to anyone in British Columbia, and not to sell any Sake or other liquid manufactured product to anyone in the Province of British Columbia except the Government of the Province of British Columbia, and further that if it contravened either of those terms the said Attorney-General was to have the liberty to apply without objection on its part for cancellation of its brewery licence. 10

7. By reason of the matters alleged in paragraphs 4, 5 and 6 hereof the plaintiff says that the defendant precluded itself from using any brewer's licence held by it for any purpose other than the business or trade of a brewer of Sake and is precluded from raising the plea contained in paragraph 14 of the Defence.

8. The plaintiff further says that by reason of the matters 20 alleged in paragraph 4, 5 and 6 hereof the defendant is precluded from raising the pleas contained in paragraphs 15, 16, 17 and 20 of the Defence, the defendant having, in order to obtain the grant of a brewer's licence under the Excise Act, subjected itself to the condition that the said licence should only be used for the purpose of the trade or business of a brewer of Sake.

9. As to paragraph 21 of the Defence the plaintiff will object that it discloses no answer to the statement of claim on the ground that even if the said agreement was not authorized by resolution as alleged in the said paragraph, which is denied, the plaintiff was 30 not concerned to enquire whether the said agreement was so authorized or not, and the plaintiff further says that the said agreement is under the defendant's corporate seal and contains an acknowledgment of the receipt of the consideration named therein being the sum of \$15,000.00 and the defendant is estopped from denying such receipt.

DATED at Vancouver, B.C., this 29th day of March, A.D. 1932.

PATTULLO & TOBIN,
 Solicitors for the plaintiff.

DELIVERED by Pattullo & Tobin, whose place of business 40 and address for service is 1404 Standard Bank Building, 510 Hastings Street West, Vancouver, B.C.

To the defendant,

And to Messrs. Lennie & McMaster,
 its solicitors.

In the Supreme Court of British Columbia

(Before the Honourable Mr. Justice D. A. MacDonald)

RECORD

*In the Supreme
Court of British
Columbia*

V 437/32.

Proceedings
at Trial
June 1, 1932

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff,

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant.

10

PROCEEDINGS AT TRIAL

Vancouver, B.C.,
1st June, 1932.

H. B. ROBERTSON, ESQ., K.C. and
J. W. deB. FARRIS, ESQ., K.C. appearing for the Plaintiff.

D. N. HOSSIE, ESQ., and
R. M. MACDONALD, ESQ., appearing for the Defendant.

The Court: I have read the record. You might proceed,
Mr. Farris.

20 Mr. Robertson: If your lordship has read the record, there
is no necessity for my opening. Your lordship sees the difficulty
arises on an agreement of the 10th of December, 1927, between the
plaintiff and the defendant and there are various defences.

The Court: I have read the record two or three times. If
you will proceed with your evidence, I will be glad.

Mr. Robertson: I will put in first the certificate of incor-
poration of the plaintiff company.

Mr. Macdonald: That is the plaintiff company?

Mr. Robertson: Yes.

30 (DOCUMENT REFERRED TO MARKED EXHIBIT 1).

Mr. Robertson: And the memorandum and articles of assoc-
iation of the plaintiff company.

(DOCUMENT MARKED EXHIBIT 2).

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And certified copy of the memorandum of association of the defendant company.

(DOCUMENT MARKED EXHIBIT 3).

And certified copy of the articles of association of the defendant company?

(DOCUMENT MARKED EXHIBIT 4).

And I will call Mr. Reifel.

Also the certificate of incorporation of the defendant company.

At page 2252 of the B.C. Gazette, July 19, 1923, showing the date of incorporation to be 11th day of July, 1923. We will put in a copy if necessary. 10

Mr. Macdonald: A copy will be all right.

The Court: Well, then, if you are going to put in a copy, mark it exhibit 5.

(COPY OF CERTIFICATE OF INCORPORATION MARKED EXHIBIT 5).

Plaintiff's
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Henry Reifel
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HENRY REIFEL, a witness called on behalf of the Plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROBERTSON: 20

Q. Your name is Henry Reifel? A. Yes, sir.

Q. Just turn towards his lordship. You live at 1451 Angus Drive? A. Yes.

Q. And your business is that of a brewer? A. Yes.

Q. You have been in the brewing business quite a number of years, I understand? A. Yes, sir.

Q. Are you now a director of the plaintiff company, the Vancouver Breweries Limited? A. No, sir.

Q. When did you cease to be a director of that company? A. In 1931 . . . 1930 or 1931. 30

Q. Were you a director of that company in 1927? A. Yes, sir.

Q. Were you also the president of the company at that time? A. Yes, sir.

Q. Were you also a director of the Canadian Brewing & Malting Company Limited in 1927? A. Yes, sir.

Q. During that year? A. Yes, sir.

Q. During the year 1927. It is the Canadian Brewing & Malting Company Limited. You say yes to that? A. Yes.

Q. Who were the directors of the plaintiff company the Vancouver Breweries Limited during the year 1927? A. Me and Mr. Marling and my son George Reifel. 40

- Q. And who were the directors at that time of the Canadian Brewing & Malting Company Limited? A. I think that they were the same.
- Q. That is, during the year 1927? A. Yes.
- Q. And there was a company called the British Columbia Breweries (1918) Limited? A. Yes.
- Q. That company had been incorporated prior to 1927? A. Yes.
- Q. And it was a holding company, was it not? A. Yes, sir.
- 10 Q. It held all the shares of the Canadian Brewing & Malting Company Limited as well as the shares of the plaintiff company? A. Yes.
- Q. Except, I suppose, one or two shares to qualify— A. Yes.
- Q. —the necessary number of shareholders? A. Yes, sir.
- Q. Now is Mr. Marling alive? A. No.
- Q. When did he die—about? A. I think he died in '31—was it '31—might I ask Col. Tobin about that, my lord?
- Q. Well, that is close enough.
- Mr. Farris: It was subsequent to this transaction anyway.
- 20 Mr. Robertson: Q. It would be either 1930 or '31? A. Yes.
- The Court: That is close enough. It was after '27, anyway.
- Mr. Robertson: Q. Now, the Vancouver Breweries Limited had a licence to brew beer in the City of Vancouver? A. Yes.
- Q. And they had had that licence a number of years prior to 1927? A. Yes.
- Q. And they had brewed beer each year? A. Yes.
- Q. What was the brewing capacity of the brewery in 1927? A. Something about 200,000 barrels a year.
- Q. And in 1927 what was your output of that brewery? 30 A. Something like 60 per cent. of that.
- The Court: 60 per cent. of the 200,000? A. Yes.
- Mr. Robertson: Q. Now, the Canadian Brewing & Malting Company, did they have a licence? A. Yes, sir.
- Q. And did they brew during the year 1927? A. I don't know—they did not brew in 1927, no, but in my discovery I said they did, but on looking it over this morning I find out they did not brew in 1927, but they brewed in 1928.
- Q. Did they brew in 1926? A. I couldn't tell you. I know they didn't brew for a few years because they had quite a number 40 of repairs to make.
- The Court: You say they did not brew in 1927, but they did brew in 1928? A. Yes.
- Mr. Robertson: Q. Did the British Columbia Breweries (1918) Limited have a licence to brew beer at any time? A. No.
- Q. Now, on the 5th of December, 1927, were there any breweries outside of what you have mentioned carrying on business in Vancouver? A. No.

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Q. That is, manufacturing—I mean having their manufacturing plant and brewing plant in operation? A. No.

Q. There was a brewery at New Westminster, however, wasn't there? A. Yes.

Q. That is about 14 miles away from Vancouver? A. Yes.

Q. That was the Westminster Brewery? A. Yes.

Q. Was it brewing beer in 1927? A. Yes.

Q. What was its capacity at that time? A. Oh, I would think something about 70,000 barrels—between 65,000 and 75,000 barrels. 10

Q. A year? A. Yes.

Q. And about what were they turning out? A. I would judge about 30 per cent. of that.

Q. Are they still in business there? A. Yes.

Q. And have been ever since 1927? A. Yes.

Q. Did they sell their beer in Vancouver during that year? A. Yes.

Mr. Hossie: How does this witness know that?

Mr. Robertson: From his general knowledge of the brewing trade. 20

Mr. Hossie: I don't think this witness has been qualified to give evidence of that yet.

Mr. Robertson: Q. Have you ever been in the brewing plant in New Westminster? A. Yes.

Q. Have you known it quite a number of years? A. Yes.

Q. Have you had occasion to know something about their output? A. Yes.

Q. And their capacity? A. Yes.

Mr. Macdonald: There is another objection I would like to take to this line of examination. It is on the pleadings there was an agreement as to the restraint of trade between not only the plaintiff company and the Canadian Brewing & Malting Company, but other companies outside; and on the examination for discovery when Mr. Reifel was asked about that, he refused to answer any questions about outside companies. 30

Mr. Robertson: I would like my learned friend to refer me to the paragraph which relates to outside companies. I must have overlooked that. Which paragraph—which paragraph is it?

Mr. Macdonald: Under clause "C" of Section 15. It is alleged that the agreement in question is contrary to public policy, 40 illegal, void and unenforceable, as being—

"(c) It contravenes the provisions, of sections 496 and "498 of the Criminal Code of Canada and the subsections "thereof, in that it is designed to prevent or lessen competition in the manufacture and purchase and sale of articles "which are a subject of trade and commerce."

Now, in connection with that clause the present witness was examined for discovery as to any agreement— or as to the extent of

any agreement between his company and outside companies, and he declined to answer the question on advice of counsel.

The Court: Well, he wasn't asked that question. All that he is asked now is about the New Westminster Brewery and what they were producing.

Mr. Macdonald: Yes, but what has the Westminster Brewery to do with this case except to show there was competition. If that is what my learned friend is now driving at it is contrary to the position he took on his examination for discovery.

10 The Court: Now, what did he say on his examination for discovery? In any event, I am not sure but that he could alter his position now anyway if he finds he was wrongly advised. What do you refer to, Mr. Macdonald?

Mr. Macdonald: Question 159, my lord.

"Q. Now, at that time was there not some agreement amongst the breweries on the Coast, to which your company was a party—"

Mr. Lennie: I haven't got that.

The Court: Wait now—question 158—

20 "Q. Now, at that time was there not some agreement amongst the breweries on the Coast, to which your company was a party—"

Mr. Macdonald: And then Mr. Robertson objects. (Reading).

"Mr. Lennie: 160 Q. I have not finished the question yet—which apportioned the sale and distribution of beer and fixed the price.

"Mr. Robertson: I object to that. A. Well, I refuse to answer it on the advice of my counsel.

30 "Mr. Lennie: 161 Q. You refuse to answer on the advice of your counsel? A. Yes.

"162 Q. Did that agreement make any provision in regard to the quality of the beer that should be manufactured by the parties to it, or any of them?

"Mr. Robertson: I object to that. A. I object to answering that."

He objected to answer any question which was designed to show that there was no competition from outside breweries.

The Court: He is not discussing that for the moment at all 40 as far as I understand the question.

Mr. Macdonald: Then I don't know to what issue he is directing his attention.

The Court: I do not think I could tell from his question exactly what counsel was driving at for the moment. But in the examination for discovery he is discussing an agreement between various brewers and that is not up for discussion at the moment.

Mr. Macdonald: If it isn't that phase of it, then I submit there is no issue on what outside breweries were doing at all.

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The Court: Oh, I would think so, in order to meet your allegation that there was no competition—that there was someone to compete with and he says there was some one to compete with within fourteen miles of Vancouver.

Mr. Macdonald: That is the point—I submit he is altering his position—

The Court: No, I do not think so. What he is discussing now is whether there was someone in business and producing.

Mr. Robertson: Q. Now, Mr. Reifel, I think you have given me the particulars of the Westminster Brewery. Was there also 10 a brewery at Kamloops at that time? A. Yes, sir.

Q. What was its name? A. The Rainier Brewery.

Q. What was its capacity?

Mr. Hossie: I object to this evidence again because it can only be hearsay at the best.

The Court: Well, I do not know anything about that, because with regard to the Westminster Brewery he says he was there and saw it and it may apply also to the Kamloops Brewery.

The Witness: I was never in the Kamloops Brewery and I cannot give evidence as to what its capacity was but I know what 20 business they were doing.

The Court: But you could only know it from someone else.
 A. Yes.

Q. That is hardly evidence. But you do know that there was a brewery at Kamloops? A. Oh, yes, I know there was one there manufacturing beer.

Mr. Robertson: Q. And you know they were selling beer in the Province? A. Yes, they were selling beer right here in Vancouver.

Q. Now, there was a brewery at that time, in the year 1927, 30 the year we are speaking of called the Victoria Phoenix Brewing Company Limited? A. Yes.

Q. In Victoria? A. Yes.

Q. Have you ever been in that brewery? A. Yes.

Q. Can you tell me the capacity of that brewery?

Mr. Macdonald: Will your lordship note the same objection?

The Court: Yes.

The Witness: That brewery then—or now I think has a capacity of—its capacity is somewhere around between 60,000 and 70,000 barrels. 40

Mr. Robertson: Q. That was in 1927? A. Yes, it was the same as now.

Q. And what was its output that year?

Mr. Hossie: Does he know the output. He may know the size of it, but not the output.

The Witness: Well, I would judge it would be somewhere around 20 or 25 per cent. of that.

Mr. Hossie: That is only an estimate.

Mr. Robertson: Q. Now, just a moment. Anyway, they were carrying on business in 1927.

Q. Of brewing beer? A. Yes.

Q. And they were selling it in the Province? A. Yes, selling it right here.

Q. Right here in Vancouver. Now, there was also a brewery called the Silver Springs Brewery Company Limited in the City of Victoria.

The Court: In Vancouver?

10 Mr. Robertson: No, in Victoria, my lord.

The Witness: Yes.

Q. And it was carrying on business in 1927? A. Yes.

Mr. Hossie: I don't think my learned friend should lead him.

Mr. Robertson: All right.

The Witness: They were carrying on business in Vancouver. They had warehouses here and agencies here.

Q. Have you been in that brewery? A. Yes.

Q. Can you tell me what their capacity was in 1927?

20 Mr. Macdonald: The same objection.

The Court: I will take it subject to objection.

The Witness: Between 40 and 50,000 barrels.

Mr. Robertson: Q. Have you any idea of their output?
A. Their output then was about 20,000 barrels.

The Court: Is this the Silver Spring? A. Yes.

Mr. Robertson: Q. Do you know if at that time there were any breweries in Alberta? A. Yes, sir.

Q. Have you been in those breweries? A. Yes, sir.

30 Q. And were there any breweries in Ontario during that year? A. Yes, sir.

Q. And in Quebec? A. Yes, sir.

The Court: Were they shipping any beer to British Columbia? A. They didn't ship any to British Columbia at that time but they are shipping beer in now.

Q. But at that time they were not? A. At that time, no.

Mr. Robertson: Q. And how about beer coming from England and Scotland at that time? A. There is beer coming in from England, that is, different ales.

40 Q. And Scotland? A. I don't know if there are any from England or not.

Q. Do you know McEwen's Ale? A. Yes.

Q. Where does that come from? A. I don't know where the brewery is, but I know it is coming in here.

The Court: Do you not know where McEwen's Ale comes from? A. No.

The Court: You ought to be ashamed of yourself.

Mr. Robertson: Q. Now, of course, in the matter of the

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statute—in the Province of British Columbia breweries could only sell to the Government Liquor Control Board. A. Yes.

Q. And that was true in 1927? A. Yes.

Q. And the Liquor Control Board sells it to the public?

A. Yes, sir.

Q. Did the Vancouver Breweries Limited in 1927 and prior thereto do any export business? A. To China.

Q. To any extent? A. Not much.

Q. Not much? A. No.

Q. Now, Mr. Reifel, coming down to the making of this 10 agreement of December 5th, 1927—Mr. Reifel—will you produce your copy of the agreement, the one that was put in on discovery, Mr. Hossie.

Mr. Hossie: Yes.

Mr. Macdonald: Are you going to put them both in?

Mr. Robertson: I think so.

Q. Now, Mr. Reifel, I produce to you an agreement of the 5th of December, 1927, which purports to be made between the defendant and the plaintiff. Just look at that, please?

A. I have looked at it so often I know it by heart. 20

Q. Just look at it and see if that is your signature? A. That is my signature.

Q. And whose signature is that below yours? A. Mr. Marling's.

Q. Mr. Macdonald Marling? A. Yes.

Q. Was he a director of the Vancouver Breweries Limited at that time? A. Yes.

Q. And you also were a director? A. Yes.

Q. And is that the seal of the Vancouver Breweries Limited? 30

A. Yes.

Q. And was that—if my learned friend doesn't mind my leading him.

Mr. Hossie: No, don't lead.

Mr. Robertson: Q. Was there any resolution of your company—the Vancouver Breweries Limited authorizing the affixing of its seal to that agreement? A. Yes.

Q. What was the date of that meeting? A. It was almost the day of that agreement—when it was signed, the 5th day of December, 1927, at eleven o'clock.

Mr. Robertson: We have the minute here. If they want it 40 I will put it in.

The Court: Well, I suppose they are satisfied.

Mr. Robertson: And that resolution authorized you and Mr. Marling to execute that agreement and affix the seal of the company thereto? A. Yes.

Q. Then that agreement was executed by you?

The Court: Exhibit 6.

Mr. Robertson: Q. And there is also this copy which is being produced by the other side.

Mr. Hossie: Before that copy is received in evidence, I would call your lordship's attention to the fact that there is a material alteration appears on the face of it.

The Court: I will mark it for identification "A." Now, you have it before you.

(ORIGINAL DOCUMENT MARKED EXHIBIT "A" FOR IDENTIFICATION).

10 Mr. Robertson: Q. This also is a duplicate copy of the same agreement with your signature and Mr. Marling's and the seal of the plaintiff company? A. Yes.

Mr. Macdonald: Same objection.

The Court: Mark that "B" for identification.

(DOCUMENT MARKED "B" FOR IDENTIFICATION).

Mr. Robertson: Yes.

Q. Now, Mr. Reifel, will you relate the circumstances leading up to the making of that agreement 6.

The Court: No, exhibit "A" you will have to refer to it as.

20 Mr. Macdonald: It isn't in yet.

The Court: It is marked exhibit "A" for identification and it will be so referred to until we decide as to its admissibility.

Mr. Robertson: Just relate the circumstances. How did you come to get in touch with the defendant company about this licence resulting in this agreement. A. My brother—or rather my son George was making champagne. We built a factory there in 1920 and '21 and '24 and when he got in touch with some of the other breweries about champagne—

Mr. Hossie. He cannot give any evidence of what his brother
30 did.

The Court: And he cannot give any conversations.

The Witness: And when he came back this Japanese—I am sorry I cannot pronounce it, Mr. Sanmiya, he and my son—he came out to the brewery, to our plant, and they talked about brewing Sake and different brews.

Mr. Robertson: Q. You were present at this conversation?
A. Yes.

Q. Yourself and your son and Sanmiya? A. Yes. And the Jap invited us to come out to the plant that they had and to
40 look over it.

Mr. Hossie: I submit, if I may interrupt for a moment that any evidence of the negotiations leading up to the making of the document itself is not admissible, the document having been put in writing.

Mr. Robertson: My learned friend is objecting to the admissibility of the document and we are now trying to show the circumstances surrounding the making of the agreement.

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The Court: Yes, go on.

The Witness: And we went out about a week or so afterward and looked over the plant.

The Court: What did they make in the plant then? A. Sake, in fact I did not know that they had a licence for anything else at that time—anything except Sake at that particular time.

Mr. Macdonald: Did you say he hadn't a licence.

The Witness: I did not know that he had. And then he asked me and my son if we were interested to go into partnership with him or to take an interest in his plant as he did not have sufficient capital to carry on, and when we looked it over we refused to go into it at all. We went away. But some time afterwards—I think it was a year afterwards, or so, I heard from some person that the licence he has to brew sake gives him also a licence to brew beer, porter, ale and so on, the same as we were brewing and I heard at the same time that somebody else was after it.

Mr. Hossie: This cannot be evidence, what he heard.

The Court: I will take a note of that, but I want to get down to the point that is in issue.

The Witness: So after I found out about that I sent for Sanmiya and I asked him what he would take for his right to brew beer in connection with this particular licence and we came to an agreement with each other that we would pay him \$15,000 for the right to brew beer—that is, for the right to brew beer for fifteen years.

The Court: What do you mean by beer—what does that include? A. That is ale and porter and lager beer.

Q. And beer? A. And beer.

Q. There is a difference between beer and lager beer, is there? A. Yes.

Q. And you were to pay him \$15,000 for his rights for fifteen years? A. Yes.

Q. And as a result of that you signed this paper? A. As a result we signed this paper.

Mr. Robertson: Now, if your lordship will pardon me—I have to lead up to the other circumstances.

Q. Then after having arrived at this agreement with him—this verbal agreement, what did you do? A. I told him to meet me in Col. Tobin's office the next day.

Q. And then did you give instructions to Col. Tobin? A. Well, I talked it over with Mr. Marling and I think Mr. Marling gave him the instructions.

Q. Well, did you go to Col. Tobin's the next day in connection with the agreement? A. Yes.

Q. And who were present? A. There was Sanmiya and Col. Tobin. I really don't know—there was another person there—I really forget who he was, but I think—

The Court: Well, Col. Tobin will know? A. Yes, Col. Tobin will know.

Mr. Robertson: Q. Now, what happened there? A. Well, the agreement was made out and when the agreement was put before me and when I looked over it, I said to Col. Tobin, "This "isn't right, you should have made that agreement out in the name "of the Vancouver Breweries instead of the British Columbia "Breweries (1918) Limited as the B.C. Breweries has no licence." And while we were talking, the Jap Sanmiya, he agreed to that and Col. Tobin went out and changed it, while he was sitting inside—he had it changed on the typewriter and after he changed it, I signed it and the Jap signed it.

Mr. Robertson: Q. Do you remember how many copies of the agreement were there? A. Well, I am not certain, but the Colonel tells me there were four copies.

Q. But you don't remember? A. I don't remember.

Q. Now, I want you to look at 6a—at least 6a for identification. You will see there the word—at least apparently there is something typewritten that has been erased? A. Yes.

20 Q. And I think if you will look at it closely you will see that is British Columbia? A. British Columbia Breweries.

Q. Yes. And that was also in this copy? A. Yes.

Mr. Macdonald: You are referring to the alteration on the front page? A. Yes.

Mr. Robertson: And you told his lordship when the agreement was produced to you, you said the agreement should have been with the Vancouver Breweries Limited? A. Yes.

Q. And then Col. Tobin took it out and had it changed to the Vancouver Breweries? A. Yes.

30 Q. That was before it was signed, you said? A. Yes.

Q. Now, was there anything else on this document when it was handed to you first by Col. Tobin? A. Not that I know of.

Q. Any other writing? A. No.

Q. Or any other signature? A. No.

Q. You don't remember any signature? A. No.

Q. Do you remember the name of the company that was on it? A. The name of the company? The agreement was blank—and the British Columbia Breweries (1918) Limited was on it and I had that changed. I told Col. Tobin to change it to Vancouver Breweries Limited and when it was changed to Vancouver Breweries Limited it was signed.

Q. The way it was signed here? A. Yes.

Q. Was it this copy that you signed in Col. Tobin's office or some other copy, or do you remember? A. Well, it must have been this copy. It must have been those two copies, because I had it changed, you see, and I would not sign it until it was changed.

Q. And all this took place in Sanmiya's presence? A. Yes.

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Q. He is a director of the defendant company? A. Yes.

Q. And he was at that time? A. Yes.

The Court: You did not tell me who signed it on behalf of the defendant.

Mr. Robertson: Mr. Sanmiya and Mr. Lorne A. Jackson—
 Frank A. Jackson.

The Court: And is the seal of the defendant company on it, too?

Mr. Robertson: Yes.

The Court: That was all done in the office of Col. Tobin 10
 when you were there? A. No, the Jap took it away and had his
 seal put on it after me and him signed.

Q. It was taken away then? A. Yes, it was taken away by
 the Jap and he brought it back, signed, with the seal on, by Mr.
 Jackson, before I paid him the money.

The Court: Well, I think we will leave it as it is for the
 moment. Take one step at a time.

Mr. Robertson: All right.

Q. Now, looking at this exhibit "A" for identification you
 will see the words written in there British Columbia Breweries 20
 (1918) Limited and struck out? A. Yes.

Q. When was that struck out? A. At the time, when the
 top part was struck out.

Q. At the time in the office of Col. Tobin? A. Yes.

Q. At this conversation you speak of? A. Yes.

Q. Who struck it out? A. I think Col. Tobin struck it out.

Q. Do you know who had written it in there? A. Col. Tobin.

Q. Now, the agreement calls for the payment of \$15,000?
 Was that paid? A. Yes, sir.

Q. By whom? A. By me. 30

Q. In cash or by cheque? A. In cash.

Q. Whereabouts? A. In Col. Tobin's office.

Q. On that day or on some later date? A. On the day the
 signature was put on the agreement.

Q. And was it the same day? A. I don't know whether
 it was the same day or the day afterwards, but the Jap took the
 agreement away and after he came back with it signed, I paid him
 the money.

Q. I see. Now, at that time had the defendant company ever
 brewed any beer? A. Yes, they brewed sake. 40

Q. Yes, they brewed sake, but beer? A. No.

Q. Had you a conversation with Sanmiya about that? A.
 No.

Q. Did they have a plant there suitable for brewing beer?

A. No.

Q. Did he say anything about the intentions of his company

with regard to that—Sanmiya? A. What intentions of the company?

Q. Their intentions as to whether or not they intended to brew beer? A. I don't think so. He never had any intention to brew beer.

Q. Did he say anything about it? A. Yes. He said he never had any intention to brew beer.

Q. At this time? A. At the time that agreement was made.

Q. Yes, I see. Your witness.

10 CROSS-EXAMINATION BY MR. HOSSIE:

Q. Mr. Reifel, how long have you been in the brewing business in British Columbia? A. 45 years.

Q. And continuously since that time? A. Continuously.

Q. And the officers of your two companies—or rather the three companies, the plaintiff, the B.C. Breweries (1918) Company, and the Canadian Brewing and Malting Company, were all the same. That is, yourself, Mr. Marling, and Mr. Reifel were the three directors—Mr. George Reifel? A. What year do you mean?

20 Q. In 1927? A. Oh, in 1927? No. I looked it up over this morning and I will give you the list. Can I give you the list of what I got this morning?

Q. Well, the officers of the Canadian Brewing and Malting Company were the same? A. Yes.

Q. But the officers of the B.C. Breweries (1918) were different? A. The officers of the B. C. Breweries were different. But when I was examined on discovery I was wrong about that, and I looked it up since. I didn't know exactly about it, and I looked it up since, my lord, and if they want it they can have it.

30 Mr. Robertson: Q. Well, they were the same, plus two or three others who lived outside of the jurisdiction.

Mr. Hossie: Q. The shareholders of the plaintiff company and the Canadian Brewing & Malting Company were the same in 1927? A. Yes.

Q. Except certain individuals held certain shares in the company? A. Yes.

Q. And all the balance of the shares of the company were held by those others you have mentioned? A. Yes.

40 Q. Now, in regard to the Kamloops Brewery and the Silver Spring, and these other brewing companies in British Columbia, did you get reports of their output from year to year? A. Well, I know from what they sold to the Government—they were the only people who were sold to.

Q. And did you get reports of their output at that time? A. No, I don't think I did, but I calculated it on what we sold

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and what they sold. I cannot give you anything definite on what they sold.

Q. Well, you cannot give me anything definite on what they sold? A. No, I can't.

Q. But as a matter of fact each brewery sold a fair proportion of their output to the Government Liquor Control Board?

A. Yes.

Q. And the Government dealt with the different breweries more or less on the same basis of their capacity? A. Something like that, yes. 10

Q. Did you have any arrangement with the Government as to your output? A. Yes, we had some arrangement with the Government.

Q. And the companies were all aware of that arrangement? A. Yes.

Q. And were the percentages of your output fixed in that arrangement? A. Yes.

Q. Was it in writing? A. How is that?

Q. Was it in writing? A. Yes.

Q. Have you a copy of it? A. No. 20

Q. Now, in 1927, when you—Oh, just one more question on that. The Japanese, or the defendant company, was not a party to that arrangement, was it? A. No.

Q. Because they didn't brew any beer? A. No.

Q. Now, in 1927, when you saw the Japanese Sanmiya, down at his plant, and talked to him, you say this \$15,000 was arranged for what purpose? A. For fixing up his plant.

Q. No, but why were you going to pay him the \$15,000? A. Well, because somebody else wanted to buy it, we were told.

Q. And you were afraid somebody else might buy it? A. 30
Yes.

Q. And brew beer? A. Well, all right.

Q. I beg your pardon? A. Yes.

Q. In competition with yourself? A. In competition with everybody.

Q. And the other companies were a party to this arrangement you have told us? A. No, excuse me. There is ten brewers here.

Q. In British Columbia? A. In British Columbia.

Q. But not in the Vancouver area? A. Well, no, they aren't 40
in the Vancouver area.

Q. But in the Vancouver area there are your two companies? A. But they are all doing business.

Q. Just a moment. But in the Vancouver Excise area there are your two companies doing business— A. Yes.

Q. —and the defendant company only? A. Yes.

Q. And you wanted to buy out the goodwill of his beer business, did you? A. Yes.

Q. And you discussed that with him? A. Yes.

Q. How was the 15 years fixed? Did you discuss any other term? A. Well, I talked it over with some of my directors and my solicitor, and they thought 15 years was ample time.

Q. And was any other term discussed with the Jap? A. Well, after we were finished talking, he asked what I could do for him with the Government. Could I make him acquainted with somebody to sell his sake and have it put on the Government shelves and help him out in that way.

Q. And did you help him? A. Yes.

Q. And you arranged with the Government then that he should get a sale for his sake at the Government Liquor Stores? A. I recommended it.

Q. And that discussion you had with him was before the agreement was signed, was it? A. Well, I couldn't tell you about that.

Q. Well, at any rate, you did discuss it with him at the plant? A. I discussed it.

Q. And before you paid him the money he asked you about that, didn't he? A. I couldn't really tell you whether it was before or after, but we discussed it, and I gave him a letter to that effect.

Q. Was that before or after the agreement was signed? A. I think it was after the agreement was signed, or we may have discussed it first, and afterwards I gave him a letter to that effect.

Q. Have you a copy of the letter?

Mr. Robertson: We don't produce it in our affidavit of documents.

Mr. Hossie: Q. Have you a copy of the letter? A. I haven't.

Q. Is it in existence?

Mr. Robertson: You yourself got the letter, so how could we have it?

Mr. Hossie: Q. You know the Japanese is dead? A. Yes.

Q. And the letter was addressed to him personally, was it? A. I couldn't tell you. I think you have a copy of it, and I think we have a copy of it somewhere, and it can be produced.

Q. I am instructed we have not got that letter at all and have no record of it, so I would ask you to produce your copy of it. A. Well, I haven't it here to produce.

Q. In whose possession would it be? A. It must be either amongst our papers or Colonel Tobin would have it.

Q. Did you write the letter on behalf of the B.C. Breweries (1918) Company or the plaintiff company? A. I couldn't tell

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you. I don't think it was behalf of any company at all. I think it was just my personal letter.

Q. Your personal letter? A. Yes.

Q. And that was written to him before the agreement was signed, was it? A. I couldn't tell you.

Q. Are you sure that letter was not written to some officer in the Government—the Attorney-General or the purchasing agent for the Government Liquor Control Board? A. No.

Q. It was written to the Japanese? A. Yes.

Q. And did you write another letter to the purchasing agent 10
 to the same effect? A. No.

Q. And did you speak to Sanmiya more than once about it?
 A. I couldn't tell you. It was five years ago.

Q. But your recollection on that is as good as to what happened on the signing of these documents, isn't it? A. Well, the signing of the documents—you have it right there in front of you.

Q. Well, if you would get a copy of that letter in front of you your recollection might be better too? A. I don't know.

Mr. Hossie: I would ask my learned friend to produce a copy of that letter. 20

Mr. Robertson: This was not disclosed by us in our affidavit of document. They have the document in their possession, and if they want to produce it, well and good.

Mr. Hossie: It is the first time I ever heard of it.

The Court: If you have it you can produce it, but it seems to me it is not material.

Mr. Hossie: Q. Now, you say that at the time you first talked to the Jap about this deal with him you didn't know he had a brewing license? A. No.

Q. Or that he was entitled to brew beer? A. No. 30

Q. When did you find that out—about a year later? A. Something like that.

Q. Was it just before this agreement was executed? A. Well, it would be somewhere around there?

Q. How long before—just a day or so before? A. It might have been a week before.

Q. Well, as a matter of fact, when you did find it out you didn't lose any time to get hold of the Jap again? A. No.

Q. You did it as quickly as you could? A. Yes.

Q. And you didn't instruct Colonel Tobin personally, you 40
 say, after you had seen the Japanese? A. What do you mean, instruct him?

Q. About drawing up the agreement? A. Well, now, I told you before I don't know whether I instructed him or not. I don't think I did. I told Mr. Marling to instruct Colonel Tobin what the agreement is, because Mr. Marling was there and he saw

the Jap in the brewery, and he went down and instructed Colonel Tobin how to draw the agreement.

Q. Well, then, you didn't see Colonel Tobin at all about this matter until the day you saw him in his office, when the Japanese was there? A. It was the next day.

Q. And that was when you saw these two documents which have been marked here for identification 'A' and 'B'? A. Yes.

Q. Do you remember what date that was? A. Well, the agreement says the 5th of December.

10 Q. Well, do you know yourself? A. No.

Q. What day of the week was it? A. I couldn't tell you.

Q. Now, on whatever date it was that you went into Colonel Tobin's office to sign that agreement, did the Japanese go in at the same time that you did? A. He was there when I got up there.

Q. So you had no interview with Colonel Tobin about that agreement at which the Jap was not present? A. No, not that day.

20 Q. And you hadn't had one with him about this matter before? A. What do you mean?

Q. About this agreement—you hadn't had any interview with Colonel Tobin at which the Jap was not present prior to the date of this agreement, concerning it? A. No.

Q. Now, when you came in you say you saw these two agreements, these documents marked "A" and "B" for identification, but they weren't executed at that time? A. No.

Q. And was there anything written on either of them at that time? A. No, except, I think, this was written in there (indicating on document).

30 Q. By "this" you mean what? A. B.C. Breweries (1918) Limited.

Q. B.C. Breweries (1918) Limited? A. Yes.

Q. Well, I understood you to say in your evidence in chief that the documents were blank—that there was nothing on them?

Mr. Robertson: No.

Mr. Hossie: I might have misunderstood him.

Q. And you say there was nothing else written on them? A. No.

40 Q. Was the name of the Vancouver Malt & Sake Brewing Company Limited on them at the time? A. Yes.

Q. That is, the Vancouver Malt & Sake Brewing Company Limited was on it at the time? A. Well, I am not an expert on this thing—you can let an expert decide that.

The Court: There is no necessity to waste time with a lot of details like this, but carry on.

Mr. Hossie: If your lordship will bear with me, there may be some materiality in this.

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Q. But there was no signature of any individual on them when you first saw them? A. No.

Q. Or any seal of any company? A. No.

Q. And you instructed Colonel Tobin to change the name when you were there? A. Yes.

Q. And when the Jap was there? A. Yes.

Q. From the British Columbia Breweries (1918) Limited to the Vancouver Breweries Limited? A. Yes.

Q. And Colonel Tobin had that done? A. Yes.

Q. And he went out to the typewriter and had that change made? A. Yes.

Q. And when he came back did you look over the document to see if it was all right and see that it was done? A. Well, he is our lawyer and whatever he puts before me, I sign.

Q. Well, you saw it was changed before you signed it? A. I saw this change, yes.

Q. And you saw the change on the front page? A. Yes.

Q. And the name of the present plaintiff was inserted? A. Yes.

Q. And were Colonel Tobin's initials on it at that time? A. I couldn't tell you.

Q. And did you notice also the words British Columbia Breweries (1918) Limited were then struck out, that is, a line had then been drawn through them? A. They were struck out when I signed this.

Q. That is, I am referring to this part here at the end? A. Yes.

Q. And they were struck out at the time the correction was made on the front page? A. I would think so.

Q. And they were struck out before you signed it, in any event? A. Yes, it was struck out before I signed it—that is all I know.

Q. And before the Japanese signed it? A. Yes.

Q. But Mr. Jackson wasn't present at that meeting, was he? A. Well, I couldn't tell you now, but there was somebody there with the Jap, but I just couldn't tell you who it was.

Q. Well, were those words put there in ink, the British Columbia Breweries (1918) Limited struck out before Mr. Jackson signed it? A. I couldn't tell you.

Q. Or was his signature on it when you signed it, do you know? A. No.

Q. And the strike out part was there when you signed it? A. Yes.

Q. So it must have been struck out before he signed it? A. It must have been.

Q. And was Mr. Marling present at this meeting? A. At this meeting when the agreement was signed, do you mean?

- Q. Yes? A. I couldn't really tell you.
- Q. When the Jap was there? A. I know the Japanese was there, and there was another gentleman was there, and I have been trying to think who it was, and I really cannot remember, but I always thought Jackson was there at that time.
- Q. And if Jackson says he wasn't there at that time, you would believe him, I suppose? A. Yes.
- Q. But you don't remember whether Mr. Marling was there or not? A. No, I don't remember. Mr. Marling may have been there. There was some other gentleman there, but I could not remember about it.
- Q. Did you see Mr. Marling sign these documents? A. I don't know.
- Q. You don't remember him signing the documents, anyway? A. No.
- Q. You remember about the seal being put on them? A. No, and I don't remember either about the seal, but he had instructions to put the seal on.
- Q. Did you sign the document when the Jap was there? A. 20 When the Japanese signed it, I signed it.
- Q. You both signed it in Colonel Tobin's office? A. Yes.
- Q. And then the Japanese went away? A. Yes.
- Q. And what did he take with him—did he take a copy of the agreement? A. I don't know whether he took a copy of the agreement or not, because Colonel Tobin attended to that.
- Q. Was his company seal on the document at that time? A. I couldn't tell you.
- Q. And you really don't know whether the Japanese was given a copy of the agreement or not? A. No.
- 30 Q. Do you remember if at that time this first typing at the top was in about "A body Corporate having its registered office "at the said City of Vancouver," etc. was it in or not? A. Yes, that was in.
- Q. And that was all done on the 5th December, you think, judging by the date of the document? A. Yes.
- Q. And you think that that was all done on the 5th December—that was the first interview, in any event? A. Yes.
- Q. Now, did you see the Japanese again that day? A. Either that day or the next day.
- 40 Q. Who was present at that time? A. Well, I was present.
- Q. Anyone else? A. I don't think there was anyone else present at that time, except the Jap, but I always thought there was another gentleman. But Mr. Marling and Mr. Jackson—
- Q. But Colonel Tobin was there? A. Yes.
- Q. And it was on the second occasion that you paid the money? A. Yes.

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Q. And at that time did you examine the documents to see if the defendant's seal was on them? A. I asked Colonel Tobin if it was all right, and he said it was, and I paid the money.

Q. But you didn't examine the document yourself at that time? A. No.

Q. Did you look at the second page of the agreement at that time? A. No, not after I signed it.

Q. Do you know if Marling had signed it at that time? A. Yes, he must have signed it because Jackson had signed it. But I don't want to go ahead of my story. Colonel Tobin said it was all right, and I paid the money. 10

Q. But you saw Jackson's signature on it the second time before you paid the money? A. I think I did.

Q. Did you give the Japanese a copy at that time? A. I think he got a copy of it. Colonel Tobin attended to it.

Q. Well, did he get one? A. I don't know whether he did or not, because Colonel Tobin attended to it.

Q. How was the money paid? A. Cash.

Q. What was the denomination of the bills? A. I couldn't tell you. It was all big bills. 20

Q. You had it with you? A. Yes.

Q. Where did that money come from? A. From the Vancouver Breweries.

Q. It was taken from the Vancouver Breweries Limited? A. Yes.

Q. Have you an entry in your books showing that? A. I couldn't tell you.

Q. Was it taken out by cheque? A. I took it out by cheque, and had it cashed.

Q. Out of the Vancouver Breweries? A. Yes. 30

Q. Or out of the British Columbia Breweries (1918) account? A. No. Don't confuse me. I told you it was the Vancouver Breweries.

Q. Well, when did you draw it out—that day? A. That day.

Q. Did the Canadian Brewing & Malting Company have a banking account at that time? A. No.

Q. Did the British Columbia Breweries (1918) Limited have a bank account at that time? A. I don't know whether they had or not. 40

Q. Was the \$15,000 charged up to the cost of operations? A. I don't know.

Q. You don't know anything about it? A. No.

Q. But the cheque was drawn? A. It was given in cash.

Q. Why was it given in cash? A. Because he wanted it in cash. That was the reason.

Q. And you drew it in large denomination bills? A. Yes.

Q. What was the amount of the cheque you drew out? A. \$15,000.

Q. When did the Jap request you to pay it in cash? A. He requested me to pay it in cash. I could not tell you what time, but he got the cash.

Q. Did you think that was curious? A. I couldn't tell you if I did or not, but that was his business; it wasn't mine.

Q. Did you take a receipt for it? A. I think I did, but I I have mislaid it or something.

10 Q. Where is the receipt? A. I haven't got the receipt.

Q. Who drew the receipt? A. I think if anybody would have drawn the receipt it must have been Colonel Tobin, but he cannot find it, and he has looked high and low for it.

Q. What did you do with the receipt when you got it? A. I gave it to my company.

Q. And is that recorded and filed in your records as a voucher? A. I couldn't tell you.

Q. You don't know anything more about it than that? A. No, I don't know anything more about it.

20 Q. What was on the receipt? A. I don't know.

Q. Who signed it? A. The Jap signed it.

Q. K. Sanmiya? A. Yes.

Q. And was it made out to yourself? A. I could not tell you.

Q. You don't know whether the receipt was to Henry Reifel or to whom it was made out? A. No.

Q. In the course of your discussions with the Japanese did you discuss with him any penalty clause in the event of his wanting to brew beer afterwards? A. I left that to Colonel Tobin.

30 Q. At any rate, you didn't have any discussion with him on that subject at all. Do you remember telling the Jap at any time that all you wanted him to do was to get the seal of his company on that agreement? A. No, sir.

Q. Did you ask him if he had had a resolution concerning it, or held a meeting of his directors in connection with it? A. No.

Q. You didn't ask him anything about it? A. No, sir.

(Witness aside).

COL. HENRY SEYMOUR TOBIN, a witness called on behalf of the Plaintiff, being first duly sworn testified as follows:

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40 DIRECT EXAMINATION BY MR. ROBERTSON:

Q. You live in the City of Vancouver, Mr. Tobin? A. Yes, I do.

Q. And you are a member of the Bar of the Province of British Columbia? A. I am.

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Q. And have been for a number of years? A. Yes.

Q. Prior to the execution of this agreement of December 5th, 1927, marked "A" for identification, you had been acting as solicitor for the Vancouver Breweries Limited and subsidiary companies? A. Yes, I had.

Q. Now, will you just tell his lordship when you first knew anything about the desire of these parties to enter into an agreement with the plaintiff company? A. My first instructions were that it was proposed to purchase from a Japanese, who had a licence in the name of a company, all his rights under the licence so far as it was possible excepting as to the brewing of sake. I think my instructions were given to me by Mr. Marling, one of the directors of the Vancouver Breweries; and I prepared the agreement in draft form, but made four copies. At that time it was not known what the consideration was to be; and my recollection is that no name of any company had been put in the draft which I had prepared. Subsequently I enquired as to what company it was to be, and Mr. Marling told me it was to be the holding company, the B.C. Breweries (1918) Limited and Mr. Reifel and Mr. Sanmiya would come to my office on the day the agreement was signed. So in anticipation of their arrival, I had the name of the British Columbia Breweries (1918) typewritten in and I had written in the name of British Columbia Breweries (1918) Limited at the bottom of each copy. When Mr. Reifel and the Jap came to the office, I was then told the consideration of it was to be \$15,000 and a discussion took place as to what the amount of the penalty should be. Mr. Reifel at that time had not known about the penalty clause in detail and it was agreed that the penalty should be the same as the consideration, \$15,000, and when Mr. Reifel saw the document he says to me, "Oh, you have made them out in the name of the wrong companies."

Mr. Hossie: Q. The Jap was present? A. Yes, I think Sanmiya was present at that time. My recollection is that they came in practically simultaneously into my room; and I think Sanmiya was present at that time because I do remember very distinctly tripping over Sanmiya's chair when I went to take the document out to be altered; and that is what stands out distinctly in my mind with reference to that interview. The chair was at the end of the table; and the documents were taken out to be altered because they were wanting to sign them; and because Sanmiya was taking the documents out to be completed, so I erased on the typewriter and put the name of the Vancouver Breweries Limited in instead of the British Columbia Breweries (1918) Limited instead of making a new copy and I scored through at the end of it there, "British Columbia Breweries (1918) Limited" and I wrote in my own hand-writing "Vancouver Breweries Limited." And I think there were four copies. I wouldn't be

sure—either three or four and the four were signed by Mr. Reifel and Mr. Sanmiya. I kept one copy and Sanmiya took away either two or three, and came back with them with the seal of his company on them and the signature of the other director Frank A. Jackson on them. I then delivered those copies to Mr. Marling at the Vancouver Club, I think it was, because we used to meet there quite frequently and I was living at the club at the time. And the next morning Mr. Marling brought them back to my office with the seal of the brewery on it and I noticed the correction
 10 hadn't been initialed by anybody and I signed as witness in Mr. Marling's presence and initialed the corrections and my initials appear on both of these documents, exhibits "A" and "B" and that is my name as witness. It is only on one. It isn't on this document. My signature is on "A" and my initials are on both "A" and "B".

Mr. Robertson: Q. And those changes were made you say before— A. Those changes were made before anybody signed. And when the Jap came back with the documents—I thought it was the same afternoon—Mr. Reifel met him and paid him the
 20 money in my presence. The following day I wrote a letter—

Q. Will you produce the letter of December 6th, 1927, from Pattullo & Tobin to Sanmiya.

Mr. Hossie: We cannot find it.

Mr. Robertson: I will put in a copy then. Is this a copy of the letter you wrote to Sanmiya the next day? A. Yes, this is a carbon copy which was sent out by my office on the following day enclosing a copy of the completed agreement and requesting him to send back the one that he had retained, so that it could be completed in the same manner.

30 Q. Have you any record showing that was done by Sanmiya?

A. There is no record showing it ever came back.

Q. This is a letter of December 6th, 1927, addressed to K. Sanmiya, Triumph Street.

(LETTER READ AND MARKED EXHIBIT No. 6).

Q. The Vancouver Breweries, the plaintiffs, are still, of course, carrying on business in the City of Vancouver? A. Yes.

Q. I think you are a director of that company, are you not?

A. At the present time I am a director and president of the company.

40 CROSS-EXAMINATION BY MR. HOSSIE:

Q. Did you hold any office in the company at that time?

A. No, I was acting solicitor for the group of companies at that time.

Q. Are these two of the four draft copies that you say you drew up? A. Well, they are carbon copies. The one marked

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"A" appears to be the original and the one marked "B" appears to be a carbon copy. When I say, "Carbon Copy," you will notice the figures were put in later, having been put in in blank.

Q. You said on your instructions you drew four copies of the draft agreement? A. Well, these are two of the four.

Q. It wasn't marked "draft" at the time? And these are the ones that were finally used? A. Those are the documents that were drawn and finally used. It was drawn up in a hurry.

Q. Now, when you drew them you left out all mention of the party of the second part? A. The agreement speaks for itself. My recollection is that the description of the parties of the second part was left blank. I simply said "a body corporate having its registered office at the said City of Vancouver, its successors and assigns—"

Q. So everything was originally in it when you drew it? A. Yes.

Q. And that was before you had the further instructions that the name of the company was to be the Vancouver Breweries Limited instead of the British Columbia Breweries (1918) Limited? A. That is right.

Q. And when you got those instructions all you did was to type in "Vancouver Breweries Limited." A. Well, I couldn't say whether the \$15,000 price was given to me at that time or not.

Q. Can you explain to me why on exhibit "B" the words "a body corporate" is in the original as opposed to the carbon in the rest of the document? A. Apparently I was mistaken in what I told you, because you can see now that word "hereinafter" isn't in line with "assigns." And all we had in the first instance was "hereinafter called the 'purchaser'."

Q. So it is correct that the document was originally drawn with— A. —with the name of the parties of the second part blank.

Q. Not only the name, but the description—nothing after the "hereinafter." Was it then your intention to have it executed by an individual. A. No. My instructions had not been completed.

Q. Well, did you ever think that it was going to be executed by an individual? A. No, the doubt that was in my mind was about the chief operating company, which was the Vancouver Breweries Limited and the holding company was the British Columbia Breweries (1918) Limited and when Mr. Marling spoke to me about this that matter had not been discussed and in getting my instructions later, he put it in the name of the holding company and when Mr. Reifel saw it, he said the holding company had no licence and, therefore, could not use the benefit of any licence that they had acquired.

Q. Did you ever understand, rightly or wrongfully, that the parties of the second part might be an individual and not a corporation? A. It had not been suggested to me until now and I don't think I ever considered it.

Q. You drew the document yourself? A. I dictated it.

Q. And read it over? A. As I told you, the whole thing was done in a hurry.

Q. Can you give me any explanation why it is prepared at the bottom for execution by the defendant and the other thing is, 10 "signed, sealed and delivered in the presence of"? A. Well, I don't think that was dictated by me. I imagine the stenographer did that.

Q. Have you any explanation as to why the stenographer would put the corporate seal in one place and the name of the individual in the other? A. Well, I think the document is perfectly good. The seal is on there and the name of the directors.

Q. Now, the instructions came to you from Mr. Marling on the day the document was signed? A. I could not say about that, but I know the matter was hurried.

20 Q. It was hurried so much you just typed in the name of the company and the words "body corporate" on the front? A. I have already explained to you how that occurred. The parties were waiting to sign it and the alteration was made right there.

Q. I am referring to the fact you inserted the name of the 1918 company on Mr. Marling's instructions? After preparing it in blank you inserted the name of the 1918 company on his instructions? A. That is my recollection.

30 Q. Was that done on the same day the erasure was made when the draft was there? A. I think the whole thing was done the same day. I might have received the instructions the night before, but my recollection is that this agreement was made out that morning and that the parties came in either late in the morning or in the early afternoon.

Q. In any event the 1918 company's name and these words, "a body corporate" were inserted before Mr. Reifel and the Jap came to your office? A. When the signatures were appended.

Q. No, I am talking of the 1918 company—the name of the 1918 company was inserted in the document before the Jap and Mr. Reifel came to your office? A. I think so.

40 Q. And you say you prepared the body of the document? And this is in your handwriting—merely using the word "per"? A. I don't think the word "per" is in my handwriting.

Q. Well, the word "director"? A. Well, it is in my handwriting.

Q. As it appears under Mr. Sanmiya's name and Mr. Reifel's name? A. And I think under Mr. Marling's name.

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Q. Well, isn't that Mr. Marling's writing? A. The word "director" under "Sanmiya" is in my handwriting in both parties and the one under Jackson's I wouldn't say is mine. It is rather blurred there, and the one under Mr. Henry Reifel's name is mine.

Q. And the word "per"? A. Well, the word before "Henry Reifel" is mine. That looks like his own in that case.

Q. That is on "B"? A. Yes.

Q. But on "A" it is yours? A. Yes.

Q. And is that yours in front of the Japanese's name on "A"? A. On "A" it looks like mine and I fancy it is on "B", 10
too.

Q. Well, the documents were prepared with the names of the two companies, the present defendant and the British Columbia Breweries (1918) Limited and was prepared for execution by one director in each case signing his name after the word "per"? A. No, I wouldn't say that. I think that "per" was signed after they signed their names.

Q. Well, after Mr. Reifel and the Japanese came to your office, the document had the name of the 1918 company on it both at the front and at the end of page 2? A. I am not prepared to 20
say that.

Q. Well, when Mr. Reifel raised the objection to the name of the company, as you have told us, to the name of the 1918 company being written on that document it was at that time? A. Yes.

Q. So at some time before anyone signed it was in that condition? A. Yes, it was in that condition, but the reason I said I was not prepared to say that is because it is pretty hard to recollect every detail as long ago as that, but I think I wrote those names in—yes, I think I wrote them in in anticipation of their coming, although I might have written it in in their presence. They were 30
in my office quite a long time.

Q. And then you asked the stenographer, did you, to go out and change the name of the company in both cases? A. Yes.

Q. And then you struck out the name of the 1918 company? A. Yes.

Q. And wrote in "Vancouver Breweries Limited." A. It is quite apparent there.

Q. And you wrote the "Vancouver Breweries Limited" at the same time? A. That is my handwriting.

Q. And this much is clear that stricken out part, drawn 40
through the 1918 company, was put on by you and put on before any person signed those two documents? A. Yes.

Q. And when the signatures were put on they were the signatures of whom, in your office? A. In my presence, Mr. Reifel and Sanmiya signed.

Q. If it is suggested to you, or stated by anyone, that Sanmiya's signature was not put on in your office, would you contra-

diet that? A. My recollection is that both parties wanted the signature of the other and that Mr. Reifel and Sanmiya signed it before it was taken away.

Q. But Mr. Jackson hadn't signed it, of course, at that time?

A. The Jackson part, I am a little vague about it. I did have an interview with Mr. Jackson, but I cannot remember—

Q. Where? A. At his office, but I don't remember just what it was about. It was in connection with this deal, but whether it was prior or after signing the document, I cannot remember.

10 Q. Well, did you have the document before you at that time?
A. With Jackson?

Q. Yes? A. I cannot remember, but what I think I saw him about was to get the proper name of the company and have a look at the documents.

Q. Did you have an interview with Mr. Jackson— A. I think that is what I spoke to Mr. Jackson about.

Q. But you didn't see Jackson sign the document? A. No.

20 Q. And when Jackson signed the document, this much is clear from your evidence, that the name of the 1918 company was struck out with those two lines and the "Vancouver Breweries Limited" was inserted? A. I have answered that question quite a number of times. Those names were struck out before any signatures were appended—Mr. Reifel's, Mr. Sanmiya's or Mr. Jackson's. Now, is that clear?

30 Q. Your evidence is clear, but I will tender evidence to contradict that statement. When Mr. Reifel signed the words "Vancouver Breweries Limited" was already inserted in it. That follows from what you have said? A. I don't think there is any doubt about it. I wrote "Vancouver Breweries Limited" on the four copies.

Q. And where are the other two copies of the document?

A. One is in possession of the Jap and is supposed to have come back, but I have no report of it being returned. I asked for it in that letter.

Q. One of these was produced by the defendant company. He was only given one copy to take away, was he? A. Who?

Q. The Japanese—or was he given three to take away? A. That is what I said.

40 Q. And when he came back he brought only two? A. He kept one and I kept one and the other two made the rounds to get the seals on and I sent a completed one to him and asked him to return the one that he kept—that was the next day—December 6th.

Q. Do you remember what interval there was, after the Japanese was in your office, and when the money was paid? A. Well, my recollection is he came back the same day. It might have been the following morning, and Mr. Reifel had gone out and

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come back and after he came back handed me the completed document, although it wasn't completed by the Vancouver Breweries and the \$15,000 was paid and Mr. Reifel was there on both occasions.

Q. Was Jackson there? A. I don't think Jackson was in my office in connection with this.

Q. Have you any recollection why you witnessed one copy and not the other? A. No. Which is your copy?

Q. "B" is the one produced by the defendant company? A. No. I think I probably noticed afterwards that I initialed the correction and no one else had and I signed as a witness to identify it. 10

Q. But you only signed the one copy as witness? A. Yes, I must have overlooked one copy. Where is the other one the Jap had?

Q. This is the one the defendant company produced? A. He had another one. He never returned the other one and I asked for it in that letter of December the 6th.

Q. Well, when you wrote that letter of December 6th, Colonel, was there still something to be completed on the document that you asked him to return? A. It had not been sealed by the Vancouver Breweries Limited or signed by Mr. Marling. 20

Q. So the defendant company has one uncompleted copy? A. There is no record of it having come back to my office.

Q. I am instructed they haven't a copy of it in the defendant company's office. A. Well, they don't appear to have a copy of my letter either—or the original of my letter.

Q. Is this a letter that you wrote on behalf of your firm to Mr. Hewer? A. Yes.

The Court: That will go in as exhibit 6. Did you just find it now? 30

Mr. Robertson: This will be exhibit 7. This is another letter altogether.

Mr. Hossie: This is a more recent letter. It is a letter dated October 27th, 1931, written by Col. Tobin.

The Court: This is something new? A. Yes.

Mr. Hossie: Yes, something new entirely.

The Court: To whom is that letter written. Let me get it down?

Mr. Hossie: It is written to I. B. Hewer. 40

The Court: Who is he?

Mr. Hossie: It says, "Dear Sir: We have been given to "understand that you are interested, either directly or "indirectly, in the purchase of a brewery licence standing "in the name of Vancouver Malt & Sake Brewing Com- "pany Limited.

“On behalf of Vancouver Breweries Limited, we hereby give you notice of the existence of an agreement made on the 5th day of December, 1927, between Vancouver Malt & Sake Brewing Company Limited, of the first part, and Vancouver Breweries Limited, of the second part; a copy of this agreement is attached hereto for your information.”

A. On behalf of the Vancouver Breweries.

(LETTER MARKED EXHIBIT No. 7).

10 Q. And then you received this letter from Mr. Hewer. I would ask you to produce the letter of February 12th? A. I got no answer to that letter until the following February and then I got a letter from Mr. Hewer.

Q. February the 12th—well, you only got that indirectly. The letter was written by Mr. Hewer, I see, on February 13th, 1932, addressed to Messrs. Vancouver Breweries Limited, per Messrs. Pattullo & Tobin. Is that right? This is the letter you refer to? A. Well, yes, it was addressed to Vancouver Breweries Limited c/o Pattullo & Tobin.

20 Q. Yes, and you signed your letter, “Vancouver Breweries Limited” or in the name of your firm? A. In the name of my firm, I think. This refers to your letter of the 27th of October which I take to be an answer to the other one.

(LETTER MARKED EXHIBIT No. 8).

Q. As a matter of fact, in October, you wrote a letter to the defendant company, didn't you, as well as to Mr. Hewer? A. Either to the defendant company or Mr. Jackson—I don't just recollect. I could probably though if I saw the letter.

Mr. Robertson: No, the 10th of June.

30 Mr. Hossie: Q. And on the 19th of February you replied to that last letter? A. No, you are jumping from the other one. On the 19th of February, I wrote a letter to I. B. Hewer in the name of my firm signed by Col. Tobin.

The Court: 19th of February, 1932? A. Yes, my lord.

(LETTER MARKED EXHIBIT No. 9).

Mr. Hossie: I notice that in this letter you state that Mr. Jackson is fully familiar with the terms and circumstances under which the agreement was made, “as he was a director at the time, “and is a signatory to the agreement which was completed in our
40 “office in his presence and that of Mr. Sanmiya, then president of “the company.” And that is contradictory to what you told us a few minutes ago? A. Yes, I notice that in the letter—that is what I had written in it; but after checking it up, that isn't correct.

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Q. Well, you had a discussion with Mr. Jackson after it was signed? A. I telephoned to Mr. Jackson before writing to Mr. Hewer.

Q. That would be in October, 1931? A. Yes, and I also wrote to Mr. Jackson confirming our telephone conversation according to my recollection.

Q. Who got the receipt for the cash that was handed to the Japanese, did you get it or Mr. Reifel? A. Well, I am not prepared to say there was any other receipt other than that in the document, although it seems to me in our files somewhere I saw a carbon copy of it, but I wouldn't say he signed the receipt or there was one signed by the Jap for the \$15,000. 10

Q. Have you that document? A. No, I haven't seen it recently.

Q. But it is in existence? A. I don't know whether it was ever signed by the Jap, although I have a recollection of seeing a carbon copy on file in the papers of it, but I could not find it the other day when we were talking about it.

Q. By the way, you were the solicitor for the 1918 company at the time of this transaction in 1927? A. I acted for the various companies. 20

Q. And you were solicitor for Mr. Reifel, too? A. Well, I hadn't any retainer from Mr. Reifel.

Q. I understood you to say you got in touch with Mr. Jackson to get the correct name of the defendant company. Are you clear on that? A. Well, as I say, my recollection of the conversation I had with Mr. Jackson isn't very clear. I had the name of the defendant company from our Ottawa agents. Now, I am not prepared to say whether I got it from them, and stuck to it or whether I checked it up with Mr. Jackson, but I think I spoke to him about it. 30

Q. Well, if Mr. Jackson says, as I think he will that he had no communication with you at all, in regard to this matter, would you contradict it? A. I would say he was mistaken.

Q. Well, what communication did you have with him? A. I was at his office in connection with the matter, but just why I cannot remember. I had been trying to check it up, but I think I spoke to him about the power of the company in connection with executing the document and I think about the name of the company. 40

Q. Was that the day the document was signed or the day before? A. No, I think it was shortly before.

Q. Did you discuss with him the terms of the deal? A. No, he didn't know anything about it when I spoke to him.

Q. And you didn't discuss with him anything about it? A. No.

Q. Now, these figures \$15,000, when were they typed in the document? Were they typed in at the first interview when the Jap was there? A. Well, that I would not be sure of. I got the figures from Mr. Marling after the negotiations were going on.

Q. And were they typed in on both pages at the same time? A. No, I don't think so. I think probably the two were done at the time. Looking at the documents, I don't remember. The stenographer did that out of my sight.

Q. But your instructions were what? A. To put \$15,000
10 as the consideration of the agreement, which was left blank and to put \$15,000 in the penalty clause, the amount being left blank there.

Q. Had you got that instruction from Mr. Marling? A. I couldn't say.

Q. Well, you got it from Mr. Marling, didn't you? A. That is my recollection, but I might have got it over the telephone from Mr. Reifel, I wouldn't say.

Q. But that is the time you were told about the 1918 company? A. I was told about the 1918 company when Mr. Reifel
20 came to my office.

Q. Well, you got your instructions about the name of the company at the same time—you were told it was \$15,000 as the consideration? A. I think it was the same time.

Q. And that was put in the document at the time? A. Yes.
Mr. Robertson: Will you produce the letter of the 10th of June, 1931, Mr. Jackson? I will read it in the meantime.

Mr. Hossie: Just a minute. I will see if we have it.

The Court: From whom to whom?

Mr. Robertson: From Col. Tobin of Pattullo & Tobin to Mr.
30 Jackson.

RE-DIRECT EXAMINATION BY MR. ROBERTSON:

Q. That is a letter you wrote to Mr. Jackson? A. Yes,
that is my signature.

Q. That is Frank A. Jackson who is a director of the defendant company?

Mr. Hossie: He isn't a director of this company, no.

Mr. Robertson: No, but he was at that time.

The Court: What does it say?

Mr. Robertson: I will read the letter.

40 (LETTER READ AND MARKED EXHIBIT No. 10).

Q. Was there any reply by Mr. Jackson to that letter, Col. Tobin, that you can remember? A. I don't think there was.

Mr. Robertson: I think that is all.

(Witness aside).

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Mr. Hossie: I think, my lord, now that that one letter has been read, the other letters that I put in should be read to your lordship.

The Court: Which ones?

Mr. Hossie: The exhibits that are already in. There is a letter of the 27th of October, 1931. I should have read that.

The Court: What do you want to draw my attention to there?

Mr. Hossie: In the letter of the 27th of October, 1931.

"We have been given to understand that you are interested, 10
 "either directly or indirectly, in the purchase of a brewery
 "licence standing in the name of Vancouver Malt & Sake
 "Brewing Company Limited.

"On behalf of Vancouver Breweries Limited, we hereby
 "give you notice of the existence of an agreement made on the
 "5th day of December, 1927, between Vancouver Malt &
 "Sake Brewing Company, Limited, of the first part, and
 "Vancouver Breweries Limited, of the second part; a copy
 "of this agreement is attached hereto for your information.
 "From this it will be seen that the only interest which the 20
 "Vancouver Malt & Sake Brewing Company Limited have
 "to sell in any licence or renewal thereof is in so far as
 "it relates to the brewing and disposal of Sake. Any
 "attempt to use the said licence or any renewal thereof for
 "any other purposes will be resisted by our client, Vancouver
 "Breweries Limited, who will take such legal steps as it may
 "be entitled to to enforce its rights. We trust that you will
 "govern yourself in accordance with the terms of the said
 "agreement so there will be no necessity for legal action."

And Mr. Hewer wrote back on February the 13th: 30

"I am instructed by the Board of Directors of this company
 "to state in reference to your letter of the 27th of October last,
 "directed to the writer that I did not purchase the brewery
 "licence standing the name of this company.

"I may say, however, that prior to the receipt of your
 "letter I did purchase shares in this company.

"At the time of the purchase of such shares the Minutes
 "of the company and its books of account were audited and
 "there was no record of any authorization for the execution
 "of any agreement affecting the licences or business of the 40
 "company whatever with your company.

"Before I purchased shares in the said company I stipu-
 "lated that its location should be changed and removed to
 "premises I had purchased namely Lots 24 to 29 inclusive,
 "Block 5, Subdivision "B", District Lot 182, City of Van-
 "couver."

The Court: Never mind reading that now. I don't want to hear it just now. Go on with the evidence.

RUDOLPH SAMAT, a witness called on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROBERTSON:

Q. What is your name? A. Rudolph Samat.

Q. Where do you live in the City of Vancouver? A. 1835 Barclay.

Q. And what is your position? A. Manager of the Vancouver Breweries.

Q. Now, in 1927 there was a brewery at Kamloops called the Rainier Brewery, wasn't there? A. Yes.

Q. Were you ever in that brewery? A. Yes.

Q. Did you ever have anything to do with it? A. I was the manager, yes.

Q. In 1927? A. Yes.

The Court: You were the manager? A. The manager.

Mr. Robertson: Q. Can you tell me what the capacity of the brewery was in that year? A. Do you mean the capacity of the brewery or what the brewery turned out?

Q. No, its capacity running at full speed? A. You could have turned out 50,000 to 60,000 barrels a year, 25 gallons to the barrel.

Q. And as a matter of fact how many barrels per year was the brewery turning out? A. As far as I can recollect—oh, about 7500 to 8000 barrels per annum of draught beer and about 2000 barrels a month or 24,000 barrels of bottled beer.

Q. 24,000 bottled beer? A. Yes. You see there is about three barrels of bottled beer to a barrel of draught beer content.

Q. And that beer was sold to the Government Vendors, or the Liquor Control Board, I should say? A. Yes.

Q. That is in the year 1927? A. 1927, yes.

Q. And in 1928 did it continue to operate? A. In 1928? No, its operation stopped about the beginning of 1928 when the plant was moved, or rather the making of the beer was moved into New Westminster. It was acquired there.

CROSS-EXAMINATION BY MR. HOSSIE:

Q. You had nothing to do with the sales of the beer made at Kamloops? A. Yes, sir.

Q. What did you have to do with it? A. I beg your pardon?

Q. Did you sell any of the beer to the Government itself? A. The sale was pre-arranged. The Government is really the only customer you have got, but I went and saw the Liquor Control Board once in a while.

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Q. And you knew how much the Liquor Control Board were going to take from you each year? A. No, you couldn't do that in advance.

Q. Well, you knew during the year how much the Government wanted? A. Yes, each month we knew how much they took.

Q. And all the other breweries were supplying liquor to the Liquor Control Board at that time? A. Yes.

Q. Did the company have a sales manager? A. I was the sales manager.

Q. Did you have any connection with the Vancouver Breweries at that time or with Mr. Reifel? A. Not at that time.

(Witness aside).

Mr. Robertson: That is all. I will read the discovery of Frank A. Jackson. Would it be convenient if I give you the numbers of the questions now all at one time?

The Court: Whichever you like.

Mr. Robertson: Questions 1 to 33, both inclusive in each case; 36 to 40; 42 to 44. 47 to 52; 55 to 71; 76 to 92; 104 to 125; 133 to 165; 177 to 179; 189 to 194 and 196 to 198. The examination was taken on April 19th, 1932.

The Court: April 7th I have got.

Mr. Robertson: That is the date of the order. I will put that in now—the order.

(ORDER MARKED EXHIBIT No. 11).

* * *

EXAMINED BY MR. ROBERTSON:

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F. A. Jackson

1. Q. What is your full name, Mr. Jackson? A. Frank Alexander Jackson.

2. Q. And you live in the City of Vancouver, and you are a barrister and solicitor practising in this Province? A. Yes.

Mr. Robertson: I will put in first of all the Order of the Honourable Chief Justice Morrison, which order is dated 7th April, 1932, giving leave to the plaintiff to examine Mr. Jackson.

(DOCUMENT MARKED No. 1 FOR IDENTIFICATION)

3. Q. Mr. Jackson, I believe in 1923, I think it was, you incorporated a company known as the Vancouver Malt & Sake Brewing Company Limited? A. Yes.

4. Q. And I produce to you a certified copy of the memorandum and articles, and the persons who signed the memorandum and articles were yourself and Mr. Kochiro Sanmiya. (Handing document to witness). A. Yes.

5. Q. And the company was a private company? A. Yes.

6. Q. And the articles of association of that company provided that you and Sanmiya were to be the first directors? A. I think it says that there.
7. Q. Yes, I will show it to you. Article 74, Messrs. Kochiro Sanmiya and Frank Alexander Jackson appointed the first directors of the company? A. Yes.
8. Q. And I think that you and Mr. Sanmiya continued to be the only directors of the company down to and after the making of the agreement in question here? A. No, that is not so.
- 10 9. Is that not so? A. No.
10. Q. Well, will you produce the minute book, please? A. (Producing document).
11. Q. Just tell us how long, when was the first change you made in the directorate? A. There was a man by the name of Wilson came into the company in 1924.
12. Q. 1924, how many shares did he have? A. He had something over a quarter interest in the company.
13. Q. Was he employed by Mr. Sanmiya or by the Defendant Company? A. Yes, he was employed by the Defendant Com-
- 20 pany.
14. Q. Were those his own shares, or did he hold them in trust for Mr. Sanmiya? A. No, they were his own.
15. Q. They were his own shares? A. Yes.
16. Q. How long did he continue to hold these shares? A. Oh, up until this last year.
17. Q. Now, who were the directors of the Defendant Company on the 5th December, 1927? A. There was Sanmiya and Wilson and myself.
18. Q. Sanmiya, Wilson and yourself, yes. I produce to
- 30 you an agreement of the 5th December, 1927, between the Plaintiff and the Defendant. (Handing document to witness). Is that your signature there as director? A. Yes.
19. Q. Is that the signature of Mr. Sanmiya? A. Yes.
20. Q. And that is the seal of the Defendant Company? A. Yes.
21. Q. Yes. This agreement mentions as its consideration the sum of \$15,000.00? A. Yes.
22. Q. I suppose there is no doubt that was paid, Mr. Jackson? A. Yes, that is right.
- 40 23. Q. That was paid to the Vancouver Malt & Sake Brewing Company Limited? A. Yes.
24. Q. At the time of course? A. Yes.
25. Q. Yes. Did Mr. Wilson, the other director, know about this agreement? A. No.
26. Q. What? A. No.
27. Q. He didn't know about it? A. No.

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27. Q. How was that? A. Mr. Wilson at that time was in California.

29. Q. Oh, yes, he was out of the Province at the time this agreement was made? A. Yes, he was out of the Province.

Mr. Robertson: I will have this agreement marked, please.

(DOCUMENT MARKED No. 2 FOR IDENTIFICATION)

30. Q. So there is no doubt anyway the company received the consideration of \$15,000? A. Yes.

31. Q. There is no doubt about that. Now, I think Mr. Sanmiya is dead, isn't he? A. Yes. 10

32. Q. When did he die? A. He died in March of 1930—wait a minute. 1930 or '31—1931.

33. Q. Yes, March, 1931? A. Yes.

* * *

Mr. Robertson: 36. Q. First of all after Mr. Wilson returned from California I suppose he was made aware of the contents of Exhibit 2? A. Mr. Wilson never knew of that document.

37. Q. He never knew of it at all? A. No.

38. Q. I see. Never knew of its existence? A. No.

39. Q. Was there any reason why it was kept from him? 20
 A. Well, Mr. Wilson did not come back from California. He continued to be a director up until about 1930.

40. Q. Yes, but he never came back from California? A. He never came back from California, and he never knew of the existence of the agreement.

* * *

42. Q. Yes. Now, the Defendant Company has never manufactured beer—brewed beer? A. No.

43. Q. No. As a matter of fact this \$15,000.00 was used partly to install new machinery, wasn't it, in the brewery of the 30 Defendant? A. It was used for the purpose of paying debts that the company owed at that time, and I think there were some—

44. Q. Was part of it used for the installation of new machinery? A. They bought some new tanks at that time.

* * *

Mr. Robertson: Now, my lord, I tender that agreement now.

The Court: Mark the agreement now as 12 and 13.

(AGREEMENTS MARKED EXHIBITS Nos. 12 and 13).

The Court: "A" is 12 and "B" is 13.

Mr. Hossie: My objection is reserved. 40

The Court: Yes.

Mr. Hossie: Before my learned friend reads the others, I wish to object to the admissibility of the next group of questions, because they deal with an agreement under which the widow of

the Japanese sold her shares to another party. They don't deal with the constitution of the defendant company and have nothing to do with the original agreement.

The Court: That is 47 to 52.

Mr. Hossie: Yes, and there may be some of the others.

The Court: Well, your objection is noted. I think you will get it on the record.

Mr. Hossie. I don't think it is in any way material.

The Court: I am not in a position to decide it now. You
10 may continue. I will reserve it.

* * *

47. Q. You could. All right. Now, this agreement between Mr. Hewer—I see it is an agreement dated the 15th day of September, 1931? A. Yes.

48. Q. And the parties are Mirya Sanmiya as executrix of Kochiro Sanmiya, I. B. Hewer of 720 Howe Street in the City of Vancouver, agent, yourself and the Defendant, and it is dated the 15th September, 1931. (Handing document to witness). Is that your signature to that agreement, Mr. Jackson? A. Yes.

20 49. Q. And you identify Hewer's signature? A. Yes.

50. Q. And Mirya Sanmiya? A. Yes, that is right.

51. Q. She was the widow of Kochiro Sanmiya, wasn't she?
A. Yes.

52. Q. And Mary Graysdale, I suppose, is a stenographer in your office? A. Yes.

* * *

Mr. Robertson: Now, I will put in that document. Will you let me have the agreement, please?

30 Mr. Hossie: I object to the production of that agreement, because it isn't a company document. It is an agreement between certain individuals.

The Court: Well, if the document is in court now, I think I have the power to impound it for the moment if nothing else and to mark it for identification. It was you yourself who brought up this question in the cross-examination of Col. Tobin.

Mr. Hossie: Pardon me—not this question.

40 The Court: The question apparently has been raised. I am not at all sure that it is relevant as to whether Hewer acted honestly in the matter or not. But I think this may be relevant to that issue.

Mr. Robertson: And questions 55 to 71. (Reading).

* * *

55. Q. Now, Mr. Jackson, of course you knew of the agreement Exhibit 2, you were a party to it? A. Yes.

56. Q. And that agreement, of course, prohibited—or purported to prohibit the Defendant Company from brewing beer

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and purported to transfer the goodwill in the licence so far as beer and ale were concerned to the Vancouver Breweries? A. Yes.

57. Q. Now, this document, Exhibit 3, is one for the purchase of the issued capital of the company, and it is for that purpose only, is it not? A. Well, whatever it says in the agreement; I don't know.

58. Q. Yes, and I see that the sum of \$55,000.00 consideration apparently was paid. There is a receipt on the back of this document? A. Yes.

59. Q. At the time this agreement was entered into, or before it, was Mr. Hewer advised of Exhibit 2? A. Yes. 10

60. Q. Was he given a copy of it? A. I don't think he was given a copy of it. I showed it to him.

61. Q. He was told of its contents by you? A. Yes.

62. Q. By you, yes. So he was fully aware of the situation? A. Yes, I think he was.

Mr. Lennie: Fully aware of the document, you had perhaps better say.

Mr. Robertson: 63. Q. I suppose Mr. Hewer negotiated this agreement, Exhibit 3? A. Negotiated this— 20

64. Q. Yes? A. Yes, Mr. Hewer.

65. Q. Or he negotiated with you? A. Yes.

66. Q. And when did the negotiations start? A. When did they start?

67. Q. Yes, about when? A. Oh, they started in about the month of May, 1931.

68. Q. Yes, and did you tell him then about this agreement, Exhibit 2? A. Yes.

69. Q. Yes. So he knew exactly what the position of the defendant company was under that agreement in May, 1931? A. Well, as Mr. Lennie puts it, he knew about the agreement, sure, yes. 30

70. Q. He read the agreement? A. He saw the agreement.

71. Q. And he read the agreement, did he? A. Yes.

Mr. Hossie: Same objection.

(DOCUMENT MARKED "C" FOR IDENTIFICATION)

Mr. Robertson: 76 to 92. * * *

76. Q. By the way, while Mr. Wilson was away, which one of the directors held his proxy as director? A. None of them. 40

77. Q. Well, did Sanmiya have a power of attorney for him? A. No.

78. Q. Well, who represented his shares during that time? A. No one.

79. Q. No one at all? A. No.

80. Q. No proxy, no power of attorney? A. No.

81. Q. And no proxy as a director? A. No.

82. Q. I see. Do you know why it was that there were no minutes of meetings of directors between 1924 and 1931? A. Well, the reason was this, the affairs of the company were not progressing very favourably, and I, as the secretary of the company, was not getting any money, and I was not taking a very great interest in it.

10 83. Q. Now, going back to Exhibit 2, Mr. Jackson: Did Mr. Sanmiya sign that document in your office? (handing document to witness). I suppose the two of you were together when it was signed? A. Yes, I think he signed it in my office. I am not dead certain of that.

84. Q. Well, anyway, the two of you would be together because you both acknowledge the affixing of the seal? A. He may have come in to me with the thing already signed. I am just looking at the different style of ink there.

20 85. Q. Well, anyway, you and he were together sometime when that document was signed? A. Yes, he brought the document to me for my signature.

86. Q. Either already signed, or signed it in your presence? A. Yes.

87. Q. And then you signed in his presence? A. Yes.

88. Q. Yes, thank you. A. As I said before, I can't remember whether he had signed the document before he came or not.

89. Q. But it is either the one thing or the other? A. Yes.

30 90. Q. He had signed it before and brought it to you, or he signed it there and you signed in his presence? A. Yes.

91. Q. Of course, you held a few shares, I think, at this time, but Sanmiya was really the manager of the whole concern? A. I held almost a quarter interest at that time.

92. Q. Yes, but he was the real manager of the concern? A. He was the manager of the concern, yes.

Your lordship will recognize the importance of that when you read it, because he could have been represented by a proxy if he cared to give one. And questions 104 to 125.

40 104. Q. No, all right. Now, Mr. Jackson, you have told me you incorporated this company? A. Yes.

105. Q. Will you produce a copy of our letter to the Attorney-General—letter of 12th July, 1923? A. Yes.

Mr. Lennie: I object to the production of that letter on the ground that it has nothing whatever to do with the issue in this

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action, and the further ground that the Attorney-General is not a party to the action.

Mr. Robertson: Yes, well, subject to the objection.

Mr. Lennie: Subject to the objection.

(Document produced by Witness).

Mr. Robertson: I would like that marked Exhibit 4.

(DOCUMENT MARKED No. 4 FOR IDENTIFICATION)

* * *

And then there was a document produced which I shall put in.

Mr. Hossie: I object to this, too. This is an attempt to introduce into evidence correspondence which took place between the Attorney-General and the defendant company which I submit is entirely irrelevant. 10

The Court: How do you get this evidence in?

Mr. Robertson: For this reason: The defendants are arguing that this agreement is invalid on the ground of public policy and in restraint of trade and this letter shows that the Attorney-General was asked whether he would grant them a licence. And it sets out certain things. And one of them was in their memorandum of association they had no right to brew beer and they could only get their licence if they gave an undertaking of that sort and we are tendering it as a direct answer to their point—that it wasn't a matter of public policy. 20

Mr. Hossie: My learned friend would have to show that the Attorney-General of this Province had some control over the issuing of the licence. Otherwise the statute says the minister in Ottawa issues the licence. There is no control given by anyone outside the Minister and because some parties purported to exercise control, which was utterly illegal and they made certain representations to us and we agreed we would do certain things which we did not have to do at all, is no reason for bringing this in. If my learned friend has any correspondence between us and the minister at that time then my objection would not stand—but correspondence with a third party who has no control whatever is irrelevant. 30

Mr. Robertson: It will show that the Attorney-General wrote direct to Ottawa.

The Court: I think on pleadings like this, we had better get the whole story. 40

Mr. Hossie: But my objection is noted.

Mr. Robertson: I have, my lord, the originals which I got in the Attorney-General's office.

The Court: It is a letter from the Attorney-General of what date?

Mr. Robertson: It is a letter to the Attorney-General of the 12th of July, 1923.

Mr. Farris: That is the time these licences were being obtained.

Mr. Robertson: The licence was not obtained until the next year.

The Court: This is in regard to the obtaining of the first licence.

Mr. Robertson: Yes, and I would like to put in a copy of this letter so as to return it to the Attorney-General or if you would put in your copy that was marked on the examination.

Mr. Hossie: If you have a copy, that will be all right.

Mr. Robertson: This is Mr. Jackson's copy, which was proven on the examination. Reading same).

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(LETTER MARKED EXHIBIT No. 14).

Mr. Robertson: Then, my lord, I will put in a letter or undertaking which is undated, but which the evidence shows was sent about October, 1923, by the defendant company to the Honourable the Attorney-General.

Mr. Hossie: The same objection.

Mr. Robertson: This is a copy which has been identified. And I will return the original in the same way and I will put in a copy. It is addressed to the Honourable the Attorney-General at Victoria, B.C. That is signed by the name of the Defendant Company and the signatures of K. Sanmiya, secretary, and Frank A. Jackson, president, with the seal of the company.

(LETTER MARKED EXHIBIT No. 15).

The Court: We will adjourn now until 2:15.

(1 P.M. COURT ADJOURNED UNTIL 2:15 P.M.)

(2:15 P.M. COURT RESUMED PURSUANT TO ADJOURNMENT).

Mr. Robertson: Before proceeding, my lord, with the examination for discovery of Mr. Jackson, I want to produce and put in now as an exhibit the letter which my friend asked for this morning—a letter written by Mr. Reifel to Sanmiya with regard to assisting him to promote the sale of the Vancouver Malt & Sake Brewing Company's sake with the Liquor Control Board.

The Court: What date?

Mr. Robertson: December 5th, 1927.

Mr. Hossie: Let me see it.

Mr. Robertson: The letter reads:

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"In consideration of the transfer of the goodwill of the
 "Vancouver Malt & Sake Brewing Company Limited to the
 "Vancouver Breweries Limited as per agreement of even
 "date, I hereby undertake to assist you in every reasonable
 "way in promoting the sale of your Sake to the Liquor Con-
 "trol Board."

The Court: That is exhibit 16.

Mr. Robertson: Yes, my lord.

(LETTER MARKED EXHIBIT No. 16).

Q. Now, going on with question 106 where I left off of Mr. 10
 Jackson's examination for discovery—(continuing reading ques-
 tions 104 to 125 and 133 to 165)—

* * *

106. Q. This letter, Exhibit 4, was written by you, Mr.
 Jackson, as solicitor for the Defendant Company? A. Yes.

107. Q. Yes. Now, I notice that you state that a private
 company has just been incorporated with a capital of \$100,000,
 divided into 10,000 shares and so on? A. Yes.

108. Q. That the company will be purely a Japanese com-
 pany. "I enclose copy of the memorandum of association and you 20
 will see that we have carefully excluded any powers to brew beer,
 and the company will only make Sake."

Now, on looking at the memorandum and articles I think
 that is a mistake, because they apparently got the power to brew
 beer? A. Yes.

109. Q. And I think that because of that you wrote a sub-
 sequent letter—or the company wrote a subsequent letter to the
 Attorney-General which is signed by you and Mr. Sanmiya under
 the company's seal. Will you produce a copy of that? A. No, it
 wasn't because of that letter that I wrote the other letter at all. 30

110. Q. Oh, it wasn't? A. No.

111. Q. Well, it wasn't correct in your first letter, your
 stating that you had carefully excluded the powers to brew beer?
 A. No, that wasn't so.

112. Q. I suppose that was your intention, but it wasn't
 carried out. Well, then you did write a second letter, didn't you,
 to the Attorney-General?

Will you produce a copy of that, Mr. Lennie?

Mr. Lennie: I have the same objection.

Mr. Robertson: Yes.

Mr. Lennie: Entirely irrelevant to this action.

Mr. Robertson: 113. Q. "In connection with the applica-
 tion for permission" is that right? A. Yes, I have a copy of this
 here. (Producing document).

Mr. Robertson: You might mark that Exhibit 5.

(DOCUMENT MARKED No. 5 FOR IDENTIFICATION)

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114. Q. Now, that letter reads as follows: (Reading).
That letter is apparently undated—at least my copy is un-
dated? A. Yes.
115. Q. About when was that signed? A. Well, it was
signed in or about, I should say, the month of October, 1923.
116. Q. October, 1923? A. Yes.
117. Q. When did the company get this brewing licence for
the Dominion? A. I will have to look it up.
- Mr. Lennie: It is dated 14th February, 1924.
- 10 Mr. Robertson: Well, that is all right.
- The Witness: Yes, that would be it.
- Mr. Robertson: You produce the first licence. Well, you
are producing the first licence, 14th February, 1924.
- (DOCUMENT MARKED No. 6 FOR IDENTIFICATION)
118. Q. Well, then, Exhibit 5, Mr. Jackson, is, shortly, an
undertaking that the company, if it got a brewery licence, would
not sell any malt or product of the Breweries to anyone in British
Columbia? A. Yes, just what it says in the letter, Mr. Robert-
son.
- 20 119. Q. Yes, and I suppose the Defendant Company have
kept that agreement? A. Yes.
120. Q. Yes, all right, down to the time when—the 15th
September, 1931, when Mr. Hewer got the shares of the Defendant
Company? A. Yes.
121. Q. Of course you know that the Defendant Company
could not have got this brewery licence without the consent of the
Attorney-General of the Province of British Columbia, that is
why you gave Exhibit 5, and you wrote this letter, Exhibit 4?
A. Well, I don't know.
- 30 122. Q. Well, you say so in Exhibit 4: "The promoters
have assured Mr. Allan, Collector of Customs in this City— (read-
ing). A. Yes.
123. Q. That was the case, wasn't it. You couldn't have
got your licence without the consent of the Attorney-General of
the Province? A. Well, we had to go to the Attorney-General
to get the licence.
124. Q. You had to get his consent before you could get the
licence? A. Yes, we had to get his consent.
- 40 125. Q. Yes, before you could get the licence? A. Yes.
133. Q. Have you any written communications from the
Attorney-General in answer to those letters of July 12th or—
A. Yes, I have one in answer to the letter of July 12th. This
is it. (Producing).
- Mr. Robertson: I will have that marked Exhibit 7.
- (DOCUMENT MARKED No. 7 FOR IDENTIFICATION)

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134. Q. I believe this letter Exhibit 7, was a refusal on the part of the Attorney-General to consent? A. Yes.
135. Q. And I think afterwards your company retained Mr. G. S. Wismer? A. Yes.
136. Q. And finally, I suppose through his efforts the consent of the Attorney-General was obtained? A. Yes.
137. Q. Have you any letter from him at a later date stating that his consent would be given, or had been given? A. No.
138. Q. You have no official communication at all? A. No.
139. Q. No other letter at all about this matter? A. No. 10
140. Q. Did you send to Ottawa at the time you got your licence—the brewery licence, which is Exhibit 4, or at any time previous thereto, copies of the correspondence with the Attorney-General of the Province giving this undertaking? A. No, I think any communications went straight from the Attorney-General to Ottawa itself.
141. Q. Didn't you get copies of these letters of yours to the Attorney-General—your letter, your company's letter, which is marked as Exhibit 4, and give it to Mr. Allen, the Collector of Customs? A. No. 20
142. Q. You didn't do that? A. No.
143. Q. Now, the licence, I think called for the location of the plant of the company in Triumph Street—around Triumph Street in the City of Vancouver, didn't it? A. Yes. Well, it was there before at that time it was on—
144. Q. 320 Woodland Drive? A. Woodland Drive at that time, yes.
145. Q. At the time of the transfer of the shares to Mr. Hewer, where was the plant of the company? A. It was on Triumph Street. 30
146. Q. Then when had it been moved from Woodland Drive to Triumph Street? A. In 1926.
147. Q. 1926 removed to Triumph Street? A. Yes.
148. Q. That is before Hewer came into the matter at all? A. Yes.
149. Q. Yes, I see. And they have recently got a transfer—or permission to transfer the plant from Triumph Street to some other street, haven't they? A. Yes.
150. Q. What is the other street? A. McLean Drive and Powell. 40
151. Q. Was that done before the 15th of September, 1931, or afterwards? A. It was done before.
152. Q. Done before. When was it done, Mr. Jackson, when was the application first made? A. Well—
153. Q. Perhaps you might look at your— A. Well, the application was made on or about the 15th of September, 1931, which is the date of the agreement.

154. Q. Oh, yes. Well, it was really made at Hewer's request, I suppose? A. I would say so, yes.

155. Q. So the initiation—the first application was dated 15th September, 1931? A. Yes.

156. Q. Yes, I see, and that application would be made after Mr. Hewer had paid for the shares? A. No, it was made before.

157. Q. Well, made the same day? A. Made before. You see that agreement bears date the 15th September.

10 158. Q. Yes? A. But apparently the money was paid over at a later date.

159. No, the money was paid over the same day, Mr. Jackson, 15th September.

Mr. Lennie: It doesn't say so.

Mr. Robertson: Yes, there is the date at the bottom? A. No, that is the date of the agreement.

160. Q. Oh, yes, I beg your pardon. When was the \$55,000. paid over? When was the \$55,000. paid over? A. Well, I think it was the latter part of October, 1931?

20 161. Q. Have you got any memorandum to show when it was? A. Well, I could supply you with the exact date, but I would say—

162. Q. Have you got a minute showing the application? A. The 16th October, 1931.

163. Q. That is when the money was paid over? A. Yes.

164. Q. But the application for the transfer to McLean Drive, its new location, was forwarded the 15th September, 1931? A. Yes.

30 165. Q. That was really done at Hewer's request, was it not? A. Yes.

* * *

That letter is already in. That is the second letter which is undated, but which was shown to have been sent in October. And will you give me that document marked 6. That will now be Exhibit 17. I am going to put in a number of licences, my lord, and they are all the same except the dates, I think.

(BREWERS', LICENCE MARKED EXHIBIT No. 17 DATED 14th FEBRUARY, 1924).

40 Mr. Macdonald: I suppose your lordship understands our objection goes to all of this?

The Court: Yes, I understand it is maintained throughout.

Mr. Robertson: The letter of July the 12th—will you let me have that, please. And this is a letter from Mr. Manson, the then Attorney-General, dated July 21st, 1923, to F. A. Jackson.

(LETTER MARKED EXHIBIT No. 18).

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Mr. Robertson: (Continuing reading 177 to 179).

177. Q. I see. Well, now, I suppose you and Mrs. Sanmiya and the other owners of shares in the Defendant Company did not give up control of this company until the \$55,000. was paid? A. Well, that is true.

178. Q. That is true, yes, and we have the date when that was paid. And Hewer, under that agreement, one might say, acquired all the shares of the Defendant Company? A. Yes.

179. Q. And you have told me up to that time the Defendant Company only was doing a Sake business? A. Yes.

(Questions 184 to 185). No, just a moment, I didn't put that in, my lord. Questions 189 to 194.

189. Q. The brewing licence which the Defendant company obtained was renewed from year to year? A. Yes.

190. Q. And it was renewed on, I think, the 31st March, 1931? A. Yes.

191. Q. Which would expire on the 31st March, 1932? A. Yes.

192. Q. Now, do you know if any renewal of that licence has been obtained since that? A. Well, I don't know.

Mr. Robertson: Have you got a renewal of the licence, Mr. Lennie?

Mr. Lennie: Yes. (Producing document).

Mr. Robertson: This is a licence number 5409 dated the 1st April, 1932, for the premises situated at 1445 Powell Street, and it is a licence from the 1st April, 1932 until the 31st March, 1933, and contains this endorsement on the back: "Department of National Revenue Excise Division, Ottawa, March 30th, 1932. This licence is subject to the condition that the Vancouver Malt & Sake Brewing Company Limited undertakes that it will not, by virtue of this licence, brew, manufacture, sell or dispose of beer, ale, porter or lager beer, with the exception only of Sake, until the final determination of an action commenced in the Supreme Court of British Columbia (writ issued 8th March, 1932) between the Vancouver Breweries Limited, Plaintiff, and Vancouver Malt and Sake Brewing Company, Limited, Defendant, wherein the right of Vancouver Malt and Sake Brewing Company Limited to engage in and carry on the business of brewing, manufacturing, selling or disposing of beer, ale, porter, lager beer, or any article or articles made in imitation thereof, other than Sake is denied, and an injunction sought and a declaration claimed that the Plaintiffs are entitled to all the benefits of this licence, or until this condition is removed, withdrawn or varied by the Department of National Revenue acting through its Minister on a commission of Excise.

Cancellation of this licence shall follow any breach of this condition or undertaking by the Vancouver Malt & Sake Brewing Company Limited. (Sgd.) G. W. Taylor, Commissioner of Excise." Endorsed on the back of the license itself—or written on it is "Subject to conditions attached. G. A. Allen"

You might mark that as an exhibit.

(DOCUMENT MARKED No. 10 FOR IDENTIFICATION)

193. Q. The Defendant Company never had any other licence than the one which it got originally in 1924, which has been renewed from year to year? A. Yes.

194. Q. That is, no other brewery licence? A. No.

Will you let me have that licence, please?

Mr. Macdonald: I object to that. This last license issued to the company bears upon its face a condition which is entirely the product of this lawsuit, holding in abeyance so far as the defendants are concerned, their rights to brew beer until the courts have decided that right. I do not think that has anything to do with the case and should not be made a part of it.

The Court: Now, that you have stated what it is, what harm is there in putting it on the record?

Mr. Macdonald: I don't mind having your lordship know about it, but it is irrelevant.

The Court: Now, you have stated what it is, if the case goes higher, it might as well be there.

Mr. Macdonald: I have no objection to your lordship knowing it, but I object to its relevancy.

The Court: I think it should go in the record.

Mr. Robertson: If we didn't show we had a licence, we would have no cause of action.

The Court: Mark it as exhibit 19 and that will complete the whole story.

(BREWERS' LICENCE AND LETTER DATED 30th MARCH, 1932, MARKED EXHIBIT No. 19).

Mr. Robertson: And this licence number 5409.

Mr. Macdonald: What was the last question number?

Mr. Robertson: 194. And questions 196 to 198. This is re-examination by Mr. Lennie.

196. Q. Did you have anything to do with the \$15,000.00 that was acknowledged by Exhibit 2? A. No, not personally.

197. Q. When did you first discover that it went to the company's credit? A. Oh, I discovered that within a month or so after it had been paid in.

198. Q. After it had been paid? A. Yes.

Now, that is Mr. Jackson's discovery and then I put in Hewer's discovery.

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Mr. Hossie: I think the question following where my friend left off should go in in explanation of it, question 199.

Mr. Robertson: Those aren't connected with it at all. They are a different subject altogether.

Mr. Hossie: It explained why he didn't know anything about the money until a month later.

Mr. Robertson: It submit not. It is the negotiations that took place prior to exhibit 3; and it has nothing to do with his subsequent knowledge or what took place after the agreement.

Mr. Hossie: It explains why he didn't know about it. 10

Mr. Robertson: I object. Is your lordship allowing it in?

The Court: No, carry on.

Mr. Robertson: All right. I will now give your lordship the numbers which I intend to read of Mr. Hewer's examination. Questions 1 to 44; 59 to 65; 69 to 71; 76 to 77; 78 to 95; 97 to 99; 122 to 127 and 136 to 139.

* * *

EXAMINED BY MR ROBERTSON:

1. Q. What is your full name, Mr. Hewer? A. Irving Bruce Hewer. 20

2. Q. Where do you live? A. In Vancouver.

3. Q. What is your occupation? A. Broker.

4. Q. How long have you lived in Vancouver? A. Six years.

5. Q. Where did you live before that? A. Calgary.

6. Q. That is where you met Mr. Sick? A. Yes.

7. Q. Were you in partnership with Mr. Sick? A. No.

8. Q. Did you do his business there? A. Some of it.

9. Q. This is a certified copy of the memorandum and articles of association, which I will put in. I will use my copy instead of yours. 30

Mr. Macdonald: Well, subject to their being correct.

Mr. Robertson: Well, then produce yours; it will save time.

Mr. Macdonald: I am quite satisfied to have you put yours in, and if there is any error in them it can be corrected.

Mr. Tarr: It is a certified copy from Victoria.

Mr. Robertson: You might mark those.

(MEMORANDUM OF ASSOCIATION MARKED No. 1 FOR IDENTIFICATION).

(ARTICLES OF ASSOCIATION MARKED No. 2 FOR IDENTIFICATION). 40

10. Q. Now, will you produce the agreement of the 5th December, 1927—the copy which you have, Mr. Lennie?

Mr. Lennie: I haven't got the copy that we had, but on Saturday I secured the original, which I will produce.

Mr. Robertson: All right.

11. Q. I produce to you an original agreement of the 5th December, 1927, between the Vancouver Malt & Sake Brewing Company Limited and the Vancouver Breweries Limited. You recognize that document, do you? A. Yes, sir.
12. Q. You have seen it before? A. Yes, sir.
13. Q. And that of course is the seal of the defendant company attached to the document and the signature of Mr. Sanmiya and Mr. Jackson? A. Yes.
14. Q. You might mark that for identification.
- 10 (DOCUMENT MARKED No. 3 FOR IDENTIFICATION)
15. Q. Now when did you first see Exhibit 3? A. On Saturday.
16. Q. I beg your pardon? A. Saturday.
- Mr. Macdonald: 17. Q. You mean last Saturday? A. Yes.
- Mr. Robertson: 18. Q. And when did you first see a copy of it? A. About four months ago.
19. Q. Before you entered into the agreement of the 15th September, 1931, to purchase the shares of the defendant company? A. I beg your pardon?
- 20 20. Q. Was it before you entered into the agreement of the 15th September, 1931? A. I didn't see this agreement.
21. Q. But you saw a copy of it? A. I saw what was supposed to be a copy of it, yes.
22. Q. Well, look at this Exhibit 3 and tell me if there is any difference between it and the copy you saw? A. Yes, there is a difference.
23. Q. Well, what is it? Tell me what it is. A. Well, crossing this out.
24. Q. This crossing out here—what is crossed out on the 30 second page? It looks like British Columbia Breweries Limited. A. Yes.
25. Q. That is on page 2 of Exhibit 3? A. Yes.
26. Q. But apart from that it seems to be a copy of the one you saw? A. Yes.
27. Q. And you saw that before you entered into the agreement of the 15th September, 1931, to purchase the shares of the defendant company? A. Yes.
28. Q. Now, I suggest to you that you saw that about May or June of 1931? A. No; it would be about July.
- 40 29. Q. It was Mr. Jackson who showed it to you? A. Yes.
30. Q. And so there is no question, then, that you knew all about this contract in about July of 1931? A. I had seen it.
31. Q. Well, you knew its contents, didn't you? A. Yes.
32. Q. You had read it and you had appreciated its contents? A. Yes.

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33. Q. Now, it was Mr. Lorne A. Jackson who told you about Exhibit 3, or Mr. Frank A. Jackson, I should say? A. Yes.

34. Q. And that was when you were negotiating for the purchase of the shares in the defendant company? A. About that time.

Mr. Macdonald: I do not see any issue raised with regard to the purchase of the shares in this company in this case. I do not want to object unnecessarily, but I submit there is no issue raised on the pleadings with regard to the purchase of the shares, and if you are going to continue examining along that line, I wish you would point me out the issue in the pleadings to which you are directing your examination. 10

Mr. Robertson: Our point is he knew about this contract and now he is going to commit a breach of it.

Mr. Macdonald: He is not going to commit a breach of it. It is the company who is going to commit a breach of it, if any—

Mr. Robertson: Well, when I say he is going to commit a breach of it, I mean the company.

Mr. Macdonald: Well, there is no issue differentiating Mr. Hewer as apart from the company. 20

Mr. Robertson: Oh, yes, because Mr. Hewer is the agent, and he says he is not going to live up to this agreement at all.

Mr. Macdonald: I am talking about the pleadings.

Mr. Robertson: Yes, and in the pleadings, too—paragraph 7 (c).

Mr. Macdonald: Of the statement of defence?

Mr. Robertson: The statement of claim.

Mr. Macdonald: Of the statement of claim?

Mr. Robertson: Yes.

Mr. Macdonald: 7 (c)? 30

Mr. Robertson: Yes.

Mr. Macdonald: "By a letter dated the 13th day of February, 1932, written by the defendant to the plaintiff." That isn't Mr. Hewer.

Mr. Robertson: It is signed by him, and I am examining him as an officer of the company. Just get me that appointment, will you, please?

Mr. Macdonald: I don't yet see, Mr. Robertson, where there is any issue that is raised there that affects Mr. Hewer as a shareholder different from that of the company. Mr. Hewer says he knows about this—or he had seen a copy of this agreement before he purchased the shares, but how does that affect the company? It was the company who executed it. It is the company who knew about it. 40

Mr. Robertson: This is a general cross-examination, and one of the issues here is that Mr. Hewer personally, before he acquired shares in this company, knew about this transaction, and later,

when he became an officer of the company, he said he was not going to be bound by it.

Mr Macdonald: Well, there is no such issue, and I object.

Mr. Robertson: If you don't wish him to answer, say so.

Mr. Macdonald: I don't think that is relevant, and I advise him not to answer the question, or any questions along that line.

Mr. Robertson: I will put in now the appointment for this examination.

10 (APPOINTMENT MARKED No. 4 FOR IDENTIFICATION).

Mr. Macdonald: I am objecting to the question on the same ground.

Mr. Robertson: I say this is a general cross-examination and I am not tied down to the transaction in question or to the issues alone.

Mr. Macdonald: Not as to transactions other than what are in issue here.

Mr. Robertson: There is no use our arguing like this. If you don't wish the witness to answer, you can so advise him.

20 Mr. Macdonald: I advise Mr. Hewer not to answer the question.

Mr. Robertson: 35. Q. Now, will you produce the original licence issued in 1924—the original brewer's licence? This is the original brewer's licence issued to the defendant in 1924? A. Yes.

36. Q. It will be Exhibit No. 5—licence dated 14th February, 1924—to be in force from the 14th February, 1924, until the 31st March, 1924.

(DOCUMENT MARKED No. 5 FOR IDENTIFICATION)

30 Mr. Robertson: Now will you produce the renewals, Mr. Lennie?

37. Q. This is the renewal dated the 1st day of April, 1925, and this is the renewal dated the 1st day of April, 1926? You are saying yes? A. Yes.

38. Q. And this is a renewal dated the 1st day of April, 1928? A. Yes.

39. Q. And this is a renewal dated the 1st day of April, 1929? A. Yes.

40. Q. And a renewal dated the 1st day of April, 1930? A. Yes.

41. Q. And a renewal dated the 12th day of April, 1931? A. Yes.

42. Q. Now, you haven't produced the original, which should have been taken out, or was taken out in the year 1927. Where is that, Mr. Hewer? A. I don't know.

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(DOCUMENTS MARKED No. 6 FOR IDENTIFICATION).

43. Q. Have you ever seen it? A. No.

44. Q. Now, where is the present licence — the existing licence? This is the existing licence dated the 1st day of April, 1932? A. Yes.

(DOCUMENT MARKED No. 7 FOR IDENTIFICATION)

* * *

That is now exhibit 14.

Mr. Hossie: Our objection extends to this as well.

10

Mr. Robertson: This is the agreement in question.

Mr. Hossie: I am sorry.

Mr. Robertson: I might, my lord, also read into it that this discovery took place on May 3rd, 1932.

Now, that is in as exhibit 19. (Referring to examination for discovery). Let me have those renewals.

The Court: Do you want them all in?

Mr. Robertson: We need not put them in. They are all in the same form as 1924.

The Court: If you state that, that ought to be sufficient, because you are only encumbering the record.

Mr. Robertson: There has been a little change made in the location of the plant.

The Court: It is for you to decide.

Mr. Robertson: I could put them all in as one exhibit.

The Court: Well put all those renewals in as exhibit 20, and I will mark them as being intervening renewals.

(RENEWALS MARKED EXHIBIT No. 20).

Mr. Robertson: And then questions 59 to 65; and questions 69 to 71.

30

* * *

59. Q. Who are the officers of the defendant company?

A. Mr. Lennie and myself.

60. Q. What is your office? A. Vice-president.

61. Q. And Mr. Lennie is president? A. Yes.

62. Q. Is the defendant company a private company?

A. Yes.

63. Q. And are you two the only directors of the company?

A. Yes.

64. Q. And since last September have you been the only two directors of the company? A. Yes.

Mr. Lennie: October.

Mr. Robertson: 65. Q. When did you become a director?
A. On the 16th October.

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69. Q. What shares of the company have you in your name?

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The Court: You are reading 69 now.

Mr. Robertson: Yes, my lord. "What shares of the com-
pany have you in your name—"

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* * *
10 Mr. Robertson: 70. Q. Was this letter written by you?
A. Yes.

71. Q. That is your signature, is it? A. Yes.

(LETTER MARKED No. 8 FOR IDENTIFICATION).

* * *

Now, that letter is already in. That is the one in which they
say they are going to exercise their right under the licence. Ques-
tion 76 to 77.

* * *

Mr. Robertson: 76. Q. Were you authorised at a meeting
20 of the directors to write this letter, Exhibit 8? A. Yes.

77. Q. You were. Will you produce the minute, please?
You now produce the minute signed by the president, Mr. Lennie,
of the meeting of the directors of the company held on Friday, the
12th day of February, 1932. That is a minute passed at that meet-
ing? A. Yes.

(MINUTE MARKED No. 9 FOR IDENTIFICATION).

* * *

Mr. Hossie: I think that letter goes further.

Mr. Robertson: In what respect?

30 Mr. Hossie: Well, the letter itself offers you the \$15,000.

Mr. Robertson: Yes, it offers us \$15,000. if we will give up
our rights under the agreement.

Mr. Hossie: I don't think it is put that way.

The Court: Do you want to get that minute in.

Mr. Robertson: Yes. It is exhibit 8 on this examination.

The Court: We have it in already. It is dated February
13th, 1932, and it is marked exhibit 8 here to.

Mr. Robertson: Very well, I shall just read the last para-
graph. The last paragraph of that letter says this, the last para-
40 graph but one:

"In addition to the absence of any authority for the exe-
cution of such agreement or to attach the seal thereto, there

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"is no record of the company having received the sum of
 "\$15,000. from your company. However for the purpose of
 "avoiding litigation and without admitting but denying the
 "said agreement and its validity, I am authorized to say that
 "if you will surrender it and execute a formal release thereof
 "this company will pay you the sum of \$15,000 if the sur-
 "render is made and the release is executed within a period of
 "thirty days from the date hereof."

The Court: In other words, they would give you your money
 back? 10

Mr. Robertson: Yes.

Mr. Farris: They didn't offer interest on it.

Mr. Hossie: You didn't ask for it.

Mr. Robertson: And the next question, question 77. Will
 you let me have the minute—or if you have a copy of it—I will
 have a copy of this put in, but we might have the minute marked
 in the meantime.

Mr. Macdonald: I would suggest that the whole minute book
 go in.

Mr. Robertson: No, I am not putting in the whole minute book. 20
 Perhaps I can read it into the notes:

"Minutes of a meeting of the Board of Directors of Van-
 couver Malt & Sake Brewing Company Limited held in the
 "offices of Lennie & McMaster, 901 Vancouver Block, 736
 "Granville Street, Vancouver, B.C., on Friday the 12th day
 "of February, A.D. 1932.

"Present: R. S. Lennie, I. B. Hewer.

"The minutes of the Board dated 16th October, A.D.
 "1931, were read and adopted.

"Consideration was given to a letter from Pattullo & 30
 "Tobin to Mr. I. B. Hewer dated 27th October, 1931, and on
 "motion it was resolved that he reply thereto in the terms of
 "the letter dated this day as follows:"

I think it follows exactly the exhibit that is already in, only
 the letter is dated the 13th of February and this meeting was held
 on the 12th of February, 1932.

"The meeting then adjourned."

(Signed) "R. S. Lennie"

I will put in a copy later on and it will be marked as an
 exhibit. 40

(DOCUMENT MARKED EXHIBIT No. 21).

And then Questions 78 to 95.

* * *

78. Q. Will you produce the letter of October— Oh, never
 mind that for the moment. Now, will you produce the minutes
 of the first meeting—a meeting held in October, 1931? Well, the

minutes of a meeting of the board—that must be the wrong meeting. It must be another one. May I just turn back to it? Apparently you obtained control of this company on the 16th October, 1931? A. Yes.

79. Q. Will you just mark this Exhibit 10.

(MINUTE MARKED No. 10 FOR IDENTIFICATION).

80. Q. This minute shows the first meeting at which you and Mr. Lennie were present, I suppose? A. Yes.

81. Q. And you each got a share transferred to you on that occasion? A. Yes.

82. Q. Then Sanmiya, Mrs. Sanmiya and Mr. Jackson tendered their resignation as directors? A. Yes.

83. Q. And that left you and Mr. Lennie the sole directors? A. Yes.

84. Q. That was on the 16th day of October, 1931? A. Yes, '31.

85. Q. And then these are the minutes of the meeting of directors held on the 16th October, 1931, and that is Mr. Lennie's signature and your signature at the bottom? A. Yes.

86. Q. That will be Exhibit 11.

(MINUTE MARKED No. 11 FOR IDENTIFICATION).

87. Q. Well, I see by that minute which I have just put in as Exhibit 11 that all the issued shares were transferred to yourself and Mr. Lennie? A. Yes.

88. Q. And that is the present state of the shares, is it not? A. Yes.

89. Q. And at a subsequent meeting—or no, in the same minutes I see on page 2 Mr. Lennie was appointed president and you were appointed vice-president, and Mr. McMaster secretary. Is that right? A. That is right.

90. Q. Now, will you produce a letter of the 27th October, from Mr. Tobin. Now, that is a letter of the 27th October, referred to in Exhibit 8, is it not? A. Yes.

(LETTER MARKED No. 12 FOR IDENTIFICATION).

91. Q. And a copy of the agreement of the 5th December, 1923 was attached to this letter? A. Yes.

92. Q. Now, up to the time that you obtained these shares (that would be in October, 1931) they were not brewing beer in the defendant company's plant? A. No.

93. Q. And they never have brewed beer there? A. No, not that I know of.

94. Q. Nor ale, nor porter, nor any of those things? A. No.

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95. Q. All that they brewed was sake? A. Yes.

* * *

I will put in that minute that has been marked 10 for identification. It is an organization meeting when the purchasers of the shares of the company took over the management.

(MINUTE MARKED EXHIBIT No. 22).

Mr. Hossie: One moment, Mr. Robertson, I think you might as well read the minute.

Mr. Robertson: Well, this is the same date, the 16th of October, A.D. 1931. 10

(Reads exhibit No. 22).

(Continuing reading from examination for discovery of Mr. Hewer, questions 97 to 99).

* * *

97. Q. Now, the defendant company only has one licence for brewing beer, and that is the one that has been produced here to-day? A. Yes.

98. Q. And they have never had more than one licence? A. Not that I know.

Mr. Macdonald: Not at a time. 20

Mr. Robertson: 99. Q. And you have only had this licence which has been produced here, with the various renewals? A. Yes. They have a maltsters licence.

* * *

They have in addition a maltster's licence which the articles of association of the defendant company shows was transferred from some company to the defendant. And then questions 122 to 127 and questions 136 to 139.

* * *

Mr. Robertson: 122. Q. Now, in your letter Exhibit 8— 30
By the way, just first—are you putting up a building on the premises at MacLean Drive and Powell Street? A. Yes.

123. Q. You are putting up a brewery there, aren't you? A. Yes.

124. Q. When do you expect to have that completed? A. In about three weeks' time.

125. Q. And is it then your intention to brew ale there? A. Yes.

126. Q. And to brew porter and so forth? A. To enjoy all the privileges under that licence. 40

127. Q. And to brew and sell porter and beer; in other words, to exercise all the privileges under this licence? A. Yes.

* * *

136. Q. Yes. I see on October 16th, 1931, you and Mr. Lennie owned all the issued shares in the defendant company as appears here? A. Yes.

137. Q. You each held one share in your own name, and then the two of you held 4008 shares, making 4010 altogether? A. Yes.

138. Q. Now, the plant the defendant company is constructing at the present time is, of course, for the brewing of beer, ale, and porter, and things of that sort? A. Yes.

10 139. Q. All right. That is all.

* * *

I will now call Mr. Allan.

GEORGE ELPHIUS ALLAN, a witness called on behalf of the Plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROBERTSON:

Q. Mr. Allan, you live in the City of Vancouver? A. I do.

Q. Where? A. At Beverly Crescent.

Q. And what is your business? A. Collector of National Revenue.

20 Q. How long have you occupied that position, Mr. Allan?
A. Well, under that and other titles, ten years.

Q. Did you fill that office in December of 1927? A. I did.

Q. Did you fill that office in 1923 and '24? A. Yes.

Q. Now, you know of this company, the Vancouver Malt & Sake Brewing Company Limited? A. Yes.

Q. They had, in 1923, or '24, acquired a maltster's licence, didn't they? A. They have had a maltster's licence in their name since 1924.

30 Q. And did operate the business as maltsters under that licence? A. Yes.

Q. And did they operate that business up to and inclusive of 1927? A. Yes.

Q. A maltster's business? A. Yes.

Q. And during that period also they manufactured and brewed Sake? A. Yes.

The Court: What do they make under the maltster's licence. Ask him that?

40 Mr. Robertson: Yes, what do they make under the maltster's licence? A. It is classified as a malt. Technically I think it would take an analyst or someone like that to tell you.

The Court: What do they use it for afterwards? A. In making Sake.

Q. They do not make it for making beer or porter? A. No, it could not be used for that.

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Mr. Robertson: Q. And they could make it and sell it to anyone they liked? A. No, they could only sell it to a licenced brewer. They could have sold it to another licenced brewer, but not to the public.

Mr. Robertson: Q. Now, Mr. Allan, I think you had some correspondence with the Commissioner of Excise at Ottawa in 1923, or '24, with regard to the issuance of this licence? A. I did.

Q. Will you produce a letter from the Commissioner to you authorizing the issuance of the licence? 10

Mr. Hossie: I object to the introduction of that letter in evidence.

The Court: I don't know yet what it refers to.

Mr. Hossie: I never saw the letter, and it did not come to us.

The Court: It is not in Mr. Robertson's possession. You had better look at it and decide whether you want it or not. You are relying on your licence.

Mr. Hossie: Yes. We had our licence at that time; but I submit I am not affected by any instructions a Minister chose to give one of his officials. It cannot affect me. 20

Mr. Robertson: The consent of the Attorney-General was necessary if they were to get their licence at all.

The Court: If it has to do with that subject I will allow it in.

Mr. Hossie: The Excise Act makes no provision for the consent of the Attorney-General at all.

The Court: It is already admitted by Mr. Jackson in his examination for discovery he knew he could not get his licence until he got the consent of the Attorney-General of British Columbia, and I want to get the whole story. 30

Mr. Hossie: Well, I don't see how the instructions from a Minister to another official can affect us.

The Court: It might be that there was a practice, established as between the Minister and the Attorney-General as Mr. Jackson says.

Mr. Hossie: That could not have the force of law and it isn't pleaded here.

The Court: I will have the question left open for you to argue later.

Mr. Robertson: Your lordship said there might have been a practice by the Attorney-General with regard to the issuing of these licences. 40

Q. Was there such a practice? A. Yes.

Q. That is, before they would issue a licence at Ottawa, they would get the consent of the Attorney-General of the Province? A. That is done outside of my office as between the Attorney-General and the Minister of National Revenue.

The Court: Now, what is this letter.

Mr. Robertson: It is dated the 13th of February, 1924, from the Assistant Commissioner, Mr. George W. Taylor to the Collector of Customs & Excise, Vancouver, B.C.

Q. That is yourself? A. Yes.

Mr. Macdonald: Before it goes in I would like to see it.

Mr. Robertson: Can you identify Mr. Taylor's signature as Assistant Commissioner? A. Yes.

Q. Well, you know he is the Assistant Commissioner of
10 Customs & Excise at Ottawa? A. Yes.

Q. And do these matters come under his jurisdiction?
A. Yes.

Q. And this letter reads this way: "Collector, Customs and
"Excise, Vancouver, B.C.

"Sir:—With reference to your letter of the 28th ultimo,
"and Departmental telegram in reply thereto, dated the 5th
"instant, respecting the application of the Vancouver Malt
"and Saki Company, Limited, for Brewers' Licence to brew
"Saki exclusively, you are requested, so soon as the plans and
20 "descriptions of premises and vessels have been prepared, to
"forward same, accompanied by the application for Licence,
"and the Guarantee Bond, to the Department for formal en-
"dorsation of approval of issue of License.

"The application should, of course, indicate that it is
"made for the brewing of Saki exclusively and the papers
"should be approved by the District Inspector before being
"forwarded to the Department.

"I remain, Sir, your obedient servant,

"George W. Taylor, Assistant Commissioner."

30 And then I show you a telegram of February 5th, 1924.

Mr. Macdonald: Are you putting that letter in?

Mr. Robertson: Yes, I am putting it in now.

(LETTER MARKED EXHIBIT No. 23).

Mr. Macdonald: The objection is noted.

The Court: All your objections are maintained and sustained throughout and you can cross examine on it and still maintain and reserve all your objections.

The Witness: May I supply a copy of that in place of the original?

40 Mr. Robertson: The witness would like to supply a copy of that rather than have the original go in.

The Court: Well, you can do that in any case as a matter of course.

Mr. Robertson: You have no objection to that?

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Mr. Hossie: No.

Mr. Robertson: And this is a telegram from the Commissioner of Excise, Mr. Farrow, is it not? A. Yes, this is the confirmation.

Mr. Macdonald: This objection goes to this telegram too, my lord.

Mr. Robertson: It is dated February 5th, 1924.

The Witness: One is the wire and the other the confirmation.

Q. I see. This would be the wire, would it not? A. Yes.

Mr. Macdonald: Would you let me see them, Mr. Robertson, please? 10

Mr. Robertson: Yes, but I just want to get the witness to identify them first of all.

Mr. Macdonald: Besides the other objections, there is an additional objection to this; that if it means anything at all it is to qualify the licence and the licence is paramount.

Mr. Robertson: The telegram reads as follows:

(TELEGRAM READ AND MARKED EXHIBIT No. 24).

Mr. Robertson: That is all.

G. E. Allan
Cross Exam.

CROSS-EXAMINATION BY MR. MACDONALD: 20

Q. Mr. Allan, is it correct to say that you don't take part in any negotiations between the Department and the Attorney-General, as to the arrangements between themselves? A. I never have.

Q. You don't know anything about that? A. No.

Q. But you do know, do you not, that licences authorizing the Defendant Company to brew ale, beer, porter and lager beer, have been issued from year to year to the Defendant Company? A. A brewer's licence has been issued to them every year since 1924, I think. 30

Q. And without any qualification or restriction upon them up until 1932? A. Until the current one there has been no endorsement on the licence at all.

Q. And it has been exactly the same form of licence that is issued to the Plaintiff Company itself? A. Exactly.

Q. How is the country divided up—into areas with regard to the issuance of these licences. Are there different departments? A. It is the various ports so called.

Q. Various what? A. They are issued under the Collector of each Port. Victoria is a Port, Nanaimo is a Port, and has its own District, and New Westminster is a Port. 40

Q. Well, what does the district that comes under your jurisdiction cover? A. Well, I could describe it, but not very accurately without looking at the map, but it includes the north side of

the Fraser River up to a certain parallel, which is just this side of New Westminster, and from there, following that parallel practically to the head of Vancouver Island, and the Islands in the Gulf.

Q. And is that what is generally called the Vancouver Excise Area? A. Yes.

Q. And is under your jurisdiction? A. Yes.

Q. How many brewery licences are issued in that area by the Dominion Government? A. At the present time?

Q. Yes? A. There are three.

10 Q. Those three being one to the Plaintiff Company, one to the Defendant Company, and one to the Canadian—what is the name of that company? A. Canadian Brewing & Malting Company.

Q. Any more? A. That is all at the present time.

Q. How long has that been the case. How many years? A. I could not give you the exact date, but there was another licence in existence for a number of years up until about—whether it was 1927 or 1928 I am not sure, but it never operated. It was merely a licence, and the Department refused to issue it on the
20 1st of April, 1927 or '28—I am not sure which.

Q. So for practical business purposes there have been only these three in existence for a considerable number of years past? A. Yes.

Q. And that was the case in 1927? A. Yes.

Q. Now, the 1918 company—the British Columbia Breweries (1918) Limited didn't have any licence? A. No.

Q. And never did? A. Not that I know of. Not during my time at any rate.

30 Q. The Canadian Brewing & Malting Company have not been carrying on actively as a brewery? A. They have a licence.

Q. Have they been brewing? A. Yes.

Q. Any substantial amount? A. No, not a large amount, but they have brewed every year since the licence was issued.

Q. I suppose they would have to brew something in order to get a continuance of their licence, wouldn't they? A. Not necessarily.

Q. Well, you spoke of one renewal being refused. Was that because one wasn't in use? A. There wasn't even a plant in that one. The plant is torn down and dismantled.

40 Q. Well, wasn't it because the licence was not being used that it was finally discontinued? A. Yes, there was not even a plant—neither premises nor a plant.

Q. You spoke of renewals. In point of fact every licence that is issued is an original licence, isn't it?

Mr. Robertson: That is a question of law, my lord.

The Witness: Oh, I don't know.

Mr. Macdonald: New bonds have to be put up every time

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there is a renewal, haven't they? A. No, not necessarily, but a renewal of the bond, a continuation of it.

Q. New security has to be given? A. Merely a continuation. Some bonds have run for many years with a renewal certificate each year.

Q. With a renewal of the bond? A. Yes.

Q. Every year? A. Yes.

Mr. Robertson: That would seem to—

Mr. Macdonald: Just one moment.

Q. The defendant company's last licence was for different 10
 premises other than that for which they held a licence in 1927?

A. Yes.

Q. And when a licence is required for new premises, a new application has to be made, has it not? A. A new application—that is, an application for the change of premises must be accompanied by a plan giving the full description, just as the original licence.

Q. Yes? A. And a new bond.

Q. And all preliminaries for a new licence have to be gone through with? A. With the exception I wouldn't go to the department and ask them if they would grant the licence, because the licence has been already granted for many years. 20

Q. But if they happen to be satisfied about the new premises you have to treat it as a new application, haven't you? A. Not all through.

Q. In what respect have you not? A. For many years I would have issued it off my own bat and would simply have allowed them to transfer or get a new bond and go ahead, but there has been so much trouble over liquor licences and so forth of late years that I have submitted an application of that kind for a brewery or a distillery or anything of the kind and I would submit it for approval, but there is nothing in the Act. 30

Q. But where it was required by yourself— A. That wasn't required by an Act or regulation that I know of that it should be submitted to the Department, but they are insisting on it nowadays and I am quite willing they should take the responsibility.

Q. Doesn't an application transferring a brewery business one to another have to be submitted to the Department at Ottawa?

Mr. Robertson: There is no such thing as the transfer of a brewery business. It is the transfer of a licence. 40

The Witness: Since prohibition came in, I have been in the habit of referring those things to Ottawa, but it has just been a practice. And prior to that I would not have done so.

Mr. Macdonald: Q. Well, is this the fact, that the licence that is issued is issued for the specific premises only? A. Yes.

Q. So new premises, it has to have a new licence? A. No.

I would decide that when it came up to me, whether I would actually issue a new licence or not. In this case I didn't.

Q. Wouldn't you if the licence were limited to certain premises and they removed to other premises?

The Court: You are arguing with the witness. The witness' answer in the first place was quite intelligent. If they switched to another building, they asked for consent and it would be given them. Is that correct, witness? A. Yes.

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RE-DIRECT EXAMINATION BY MR. ROBERTSON:

10 Q: Upon application being made in the form described by the Department by the holder of any licence under this Act, the licence may be transferred from any premises to any other premises. So it is a transfer of the licence, isn't it? A. Yes.

Q. Now, my friend asked you about the excise districts in British Columbia? A. Yes.

Q. And you told him they were practically the main ports, Vancouver, Victoria and Nanaimo and so on? A. Yes.

Q. And you told him in your district there were only two or three licences issued? A. Yes.

20 Q. But that has nothing to do with the right to sell beer in the Province? A. We have no jurisdiction over that whatsoever.

Q. And there is no restriction whatever on beer brewed in the New Westminster excise district being shipped to any part of the Province as far as your Department is concerned? A. Not as far as our Department is concerned, no.

Q. There are two licences—two brewers' licences in Victoria—the Silver Spring Company and the Victoria Phoenix Company? A. Well, I believe so. I have no knowledge of it.

30 Q. Do you know what brewers' licences are in existence in the upper country? A. I did at one time. They were under my jurisdiction up to 1921.

Q. And were there several up there? A. Yes.

Q. Do you happen to know of your own knowledge whether there are still some existing up there? A. I only know from general knowledge. I haven't been there for a number of years.

Q. And the brewers licence that you spoke of as being cancelled, you told us there were no premises and no plant held in connection with that licence? A. Yes.

40 Q. That is all, thanks.

CROSS-EXAMINATION BY MR. MACDONALD:

Q. I want to ask the witness a question arising out of my learned friend's question. A reference has been made to the Kamloops Brewery, the Silver Spring and the Victoria Phoenix. Isn't that controlled by Mr. Reifel? A. I don't know about that.

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The Court: You had Mr. Reifel in the box. Why didn't you ask him those things. Let us get along.

Mr. Macdonald: I wasn't instructed on that at the time Mr. Reifel was in the box.

The Court: You can have him back if you like, but do not let us waste time.

Mr. Robertson: That is the case, my lord.

Mr. Macdonald: I wish to put in some documents. In the first place, I tender the minute book of the defendant company? 10

Mr. Robertson: That isn't evidence, I submit.

The Court: The whole minute book?

Mr. Macdonald: Yes.

The Court: Doesn't the Evidence Act provide for that to be evidence?

Mr. Robertson: Against the company, but he cannot put it in unless he proves it.

The Court: Well, then, we can discuss it afterwards. I won't decide for the moment it is proper evidence, but I think it would be evidence and that the Companies Act would take care of 20 it, but in the first place he says you cannot put it in until you prove it, so get busy and prove it if you want it in.

Mr. Macdonald: The annual reports of the company for 1924 to 1930 inclusive—

Mr. Robertson: Your lordship has reserved your decision as to whether you would allow certain evidence in and I want to make formal application for it to go in so that it won't be overlooked.

The Court: Your rights are reserved.

Mr. Macdonald: The annual reports of the defendant com- 30 pany from 1924 to 1932.

(REPORTS MARKED EXHIBIT No. 25).

Mr. Macdonald: And the annual reports of the plaintiff company for the years 1926, 1927, 1928 and 1929.

(REPORTS MARKED EXHIBIT No. 26).

The Court: 25 will be the reports of the defendant and 26 the reports of the plaintiff.

Mr. Macdonald: And 27 the reports of the Canadian Brewing & Malting Company, for 1927 and 1928.

Mr. Farris: How can they be evidence against us?

Mr. Robertson: There is just one objection I would like to make about that. The allegation in the statement of defence is alleging a conspiracy between the Canadian Brewing & Malting Company and the plaintiff company. 40

The Court: He may be trying to work something out of this.

Mr. Robertson: Well, subject to my objection.

The Court: He may be able to show from your reports that you did conspire.

Mr. Macdonald: Now, my lord, I want to put in some discovery examination of Mr. Henry Reifel. Questions 1 to 3.

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EXAMINED BY MR. LENNIE:

1. Q. Your full name? A. Henry Reifel.
2. Q. And your occupation? A. Manager.
3. Q. Manager of what? A. A brewery.

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And I tender that order.

10 (DOCUMENT MARKED EXHIBIT No. 28).

Questions 68 to 72 inclusive; questions 100 to 104 inclusive; questions 135 to 150 inclusive.

68. Q. Beer, ale, porter, or lager beer? A. Yes.
69. Q. At that time what was he brewing? A. Sake.
70. Q. Exclusively? A. Exclusively.
71. Q. And he had no facilities for brewing beer? A. He had no facilities for brewing beer.
72. Q. He did not have any beer business at all at that
20 time? A. No.

100. Q. That is, you export some to China? A. We export some to China.

101. Q. Do you export to any other places? A. No.

102. Q. So that your market is limited to the Liquor Board in British Columbia and what you may from time to time export to China? A. That is it.

103. Q. Have you exported very much? A. Not much.

30 104. Q. Had you exported any at the date of this agreement? A. I could not tell you. We may have done, but it does not amount to very much.

Mr. Lennie: 135. Q. At the time this agreement was entered into, were you aware of any restriction on the defendant's licence? A. No.

136. Q. You did not know anything about it at all? A. No.

137. Q. And you did not make any inquiry? A. No.

138. Q. You assumed that it was a perfectly good brewery licence? A. Yes.

40 139. Q. And that was the reason, I suppose, that you paid the \$15,000? A. Yes, sir.

140. Q. You wanted to get whatever rights the defendant company had under that licence? A. Yes.

Mr. Robertson: 141. Q. Other than sake? A. Other than sake.

Mr. Lennie: 142. Q. Notwithstanding the fact that you had a licence yourself? A. Yes, sir.

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143. Q. Now, you recall receiving a letter from the defendants dated the 13th February, 1932. Do you recall receiving that letter? A. I don't think I received it at all. I think Colonel Tobin received it.

144. Q. You know that the company got it? A. Yes, I know the company got it.

(LETTER MARKED No. 5 FOR IDENTIFICATION).

145. Q. Now, that was in response to a letter from Pattullo & Tobin dated October 27th, 1931. Do you know anything about that? 10

Mr. Robertson: We will admit the letter was written.

(LETTER MARKED No. 6 FOR IDENTIFICATION).

Mr. Lennie: 146. Q. And the reply to this letter of February 13th, 1932, from Pattullo & Tobin is dated the 19th February, 1932. You admit that too?

Mr. Robertson: Yes.

(LETTER MARKED No. 7 FOR IDENTIFICATION).

Mr. Lennie: 147. Q. Did you have anything to do with the instructions given for this letter, Exhibit 7, from Pattullo & Tobin to the defendants? A. No. 20

148. Q. Did you know about it? A. Yes.

149. Q. And did it meet with your approval? A. Well, he told me he was going to answer it. He showed me the letter, and then he said he was going to answer it.

150. Q. You were not satisfied to accept the \$15,000? A. No.

* * *

Mr. Robertson: I think question 151 ought to go in. Question 150:

"Q. You were not satisfied to accept the \$15,000? 30

"A. No.

"Q. And release the agreement? A. I had nothing to do with it."

The Court: Well, it is on the notes now. That is one way of doing it.

Mr. Hossie: He had no right to read that question until your lordship ruled on it.

Mr. Robertson: How can I object to it unless I read it.

Mr. Hossie: His lordship has the number there.

Mr. Macdonald: Questions 153 to 156. Question 158. 40

* * *

153. Q. You were not a director; I see. Then I take it, Mr. Reifel, the purpose really of entering into this agreement with the defendant was to eliminate any competition by them, was it not? A. Well, there was no competition, but then, anyhow—

154. Q. There was not any, I know; but you wanted to

eliminate the possibility? A. The possibility for somebody else coming along, because there was no competition as far as the Japanese were concerned. He never had any idea—I don't think he knew he had a brewery licence.

155. Q. But the object of the agreement was to prevent the possibility of any competition by that company? A. Not by that company, but they may sell out.

156. Q. It could not affect anybody else. That must have been the purpose of it, was it not? A. Yes.

10 158. Q. And you were paying \$15,000 for the purpose of preventing that company from competing with you? A. Yes.

I will call Mr. Wilson.

STANLEY NORMAN WILSON, a witness called on behalf of the Defendant, being first duly sworn testified as follows:

DIRECT EXAMINATION BY MR. MACDONALD:

Q. Where do you reside, Mr. Wilson? A. In San Francisco.

Q. You formerly resided in Vancouver? A. Yes.

20 Q. You know the defendant the Vancouver Malt & Sake Brewing Company Limited? A. Quite well.

Q. When you lived in Vancouver, did you have any beneficial interest in that concern? A. I had an almost one-third interest in the company—115 shares at that time.

Q. And how long did you continue to hold those shares—up until when? A. Until September 11th or almost somewhere around September of 1931.

Q. When did you leave Vancouver? A. About November 1st, 1924.

30 Q. You are now, I may say, the manager of one of the departments in the Bank of America in San Francisco, isn't it? A. Yes.

Q. Now, prior to leaving Vancouver, did you hold any office in the defendant company? A. What do you mean by office?

Q. Were you a director? A. That was a condition of my investing money in the company.

Q. You might tell the court how you came to get into the company and explain that condition?

40 Mr. Robertson: I submit that is not proper evidence, my lord. The fact is he got into the company and it doesn't matter how he got there.

The Court: I think I will allow the evidence. I don't know where it will lead to.

Mr. Macdonald: Q. You invested money in it? A. Yes.

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The Court: How much money did you invest in it? A. \$3,000. I invested this \$3,000 with the idea of becoming a director and obtaining employment in the company and we had several preliminary meetings, and the final meeting at which Mr. Sanmiya and Mr. Jackson and myself were present those matters were definitely agreed between all of us and I left the bank two months after that and went over and worked for the company.

Q. Where were the company's premises at that time? A. 326 Woodland Drive.

Q. And to your knowledge did they hold a brewing licence? A. They had a large licence—in fact they had two licences if I remember distinctly. They had a smaller licence on the Malt & Brewing Company and then they had a large licence and when the time was heavy on our hands we looked at it several times. But it said "maltsters and brewers licence." 10

Q. Is it similar to the licence shown in exhibit 17, for instance? A. It was about that size.

Mr. Robertson: That couldn't possibly be evidence.

Mr. Macdonald: Q. Would you recognize the licence if I showed it to you? 20

The Court: Just a minute—get your answer to that.

The witness: I am not sure whether I could or not.

The Court: Well, do not show it to him then.

Mr. Macdonald: Q. Were you ever informed or did you know in any way of any restrictions in the licences held by the defendant company?

Mr. Robertson: Well, my lord, that cannot be evidence.

The Court: Oh, I think I will allow it.

A. No, sir—no restrictions whatever.

Mr. Macdonald: Q. Was the question of brewing beer one of the questions that came up between you and the other directors? 30

A. Yes, between Mr. Sanmiya and myself.

Q. What was your idea with regard to that as expressed between you?

Mr. Robertson: I object.

The Court: I think I will allow the whole story to come out.

Mr. Robertson: Then I will not rise and object to it all the time.

The Court: What do you want to say about that. A. I knew nothing whatever about making beer at this time. Sake is a description of beer—it is beer—it is brewed. I was thinking it was a distilled beverage, but it is brewed the same as beer as far as I can understand. And in discussing the affairs of the company, Sanmiya and I were together day after day and month after month and when we found the sake was not moving very fast, naturally we tried to improve our income in other ways. 40

Q. What year are you at now? A. 1924—the only year I was in Vancouver—and the question of beer came up—not only with Sanmiya, but I discussed the question of beer with the official of the New Westminster Brewery who was a friend of mine at the time and I believe he said at that time that beer could be made out of rice. That was in a purely friendly intercourse we had at different times, but nothing was ever done about our going after beer, because we were very short of capital.

Mr. Macdonald: You continued to be a director of the company until when?

The Court: You have had that already. You are going off into other things that don't amount to a hill of beans. When did you cease to be a director? A. When I sold my shares in 1931.

Mr. Macdonald: Q. You never resigned as a director? A. No.

Q. When you went away did you take any steps to keep in communication with the company in respect of the company's matter, if necessary? A. Yes, sir. Knowing I might be away for some considerable time I gave as complete a power of attorney that I could think of to my uncle, who would be here all the time.

Mr. Farris: I object to this evidence unless the documents are produced.

The Court: Yes.

Mr. Macdonald: We will produce it.

Q. Is that the power of attorney you referred to? A. Yes.

The Court: Mr. Jackson apparently did not know about it when he was examined.

(DOCUMENT MARKED EXHIBIT No. 29).

Mr. Macdonald: Q. Now, when did you first hear of the agreement that the plaintiff is seeking to enforce in this action?

A. When did I hear of it?

Q. When did you first hear of that agreement? A. The agreement—which agreement is that?

The Court: To sell out for \$15,000, giving the right to make beer? A. In March, 1931.

Q. From whom did you hear it? A. Garfield King.

Q. Who is he? A. An attorney in this city.

Q. Is he your attorney? A. He is the attorney who was my uncle's attorney at that time, at 543 Granville.

Mr. Farris: What is his name? A. Garfield King.

Mr. Macdonald: If you are finished with that we shall have it marked. (Referring to exhibit 29).

Q. Had you ever received notice of any kind that such an agreement was being considered by the company? A. No, sir.

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Q. Did you ever attend any meeting of any board of the defendant company when such matter was mentioned at all? A. No, sir.

Q. Now, speaking, Mr. Wilson, as a director of the defendant company and one who was financially interested in it, what would have been your attitude if any such proposition had been put up to you, that the company should sell out its power to brew beer and ale and porter and lager beer? A. Well, it would depend on many circumstances that would have entered into it at any particular time that this was submitted to me. At one time I would have done one thing and at another time another, but I think I would have sold out the entire company rather than sell any part of it. That would have been my answer to any question of that sort. I could see no reason why it would sell the beer licence when you could just as easily have sold the entire company. It would have been absurd. 10

Q. Would you have been willing to have entered into this agreement that the plaintiff is now claiming under if you had known about it?

Mr. Farris: I object. 20

Mr. Robertson: You understand, my lord, my objection goes to all of this evidence the witness is now giving,

Mr. Macdonald: Is the question allowed, my lord.

The Court: Yes, I do not think it makes a bit of difference on the law.

The Witness: I probably would have, yes.

Mr. Macdonald: At what price? A. It is impossible to say the price. As I say if I had had anything to say about it, which I did have at the time, I would have suggested a sale of the entire company. 30

Q. Was there any reason why the matter might not have been submitted to you? A. No.

Q. Was your address known to Sanmiya? A. Of course it was.

Q. And had you been in communication with him? A. Every three months.

Mr. Robertson: I would like my friend to produce the letters. He cannot, I submit, give evidence with regard to any communication unless he produces the evidence. There is no mention of it in his affidavit of documents and there has been no notice of it to us, and if he cannot produce the letters, we cannot cross-examine on it. 40

The Court: Where are the letters? A. Right over there.

The Court: Bring them up.

Mr. Macdonald: My learned friend's objection would be quite good if I were proving the contents of the letters.

The Court: Counsel objects to it and says you had better produce the documents and there you are. Start back to the first one, when you went down to San Francisco? A. There are dozens of them.

Q. Yes, give us some of the dates without giving the contents? A. There is one of July 26th, 1929. There is a whole bunch of them here: November 21st, '29; November 2nd, 1929; November 30th, 1929; February 20th, 1930; February 21st, 1929, and I have got more than those at home, too.

10 The Court: Perhaps that will satisfy them.

Mr. Robertson: No, these are three years after this agreement.

The Witness: I have lots before, too.

The Court: Have you any around December 5th, 1927? A. I have lots at home.

Q. Well, give us the nearest you can get to it? A. The closest to 1927? Here is one in 1924—no, I guess that is the closest I have got here.

20 Q. Then you have nothing between 1924 and 1929? A. Not here.

Q. Well, would you leave any deliberately at home when you were bringing your file? You brought your file—would you leave some at home? A. This file came from the attorneys here.

Q. I thought you picked it up from your file? A. I sent it up in advance here.

Q. To whom? A. To Garfield King.

Q. Did you send him all your letters? A. I had to.

30 Q. Well, you did then. Do you know of any letters between 1924 and 1929 that you have anywhere? A. Well, I can produce them.

Q. Do you know of the existence of any? A. Of course.

Q. Where are they? A. At home.

Q. You mean in San Francisco? A. Yes, some in San Francisco.

Q. Well, why did you bring those of 1929 and not some in between? A. Well, why would I bring any at all.

40 Q. I don't know. How did you come to bring any? A. Because these letters that I have here relate to something else I had to do with regard to the Sake Company and which I sent ahead to Garfield King, but I had other letters, too.

Q. But we are talking of this company? A. You asked how these happened to be here and that was why.

Q. You were talking about correspondence you had with Sanmiya about this company and you said you had lots of other letters? A. Yes.

Q. And you go down and get these and bring up a lot of truck. Now, have you got any letters here or anywhere else relat-

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ing to this company, from the Japanese? Will you answer that?

A. Have I any letters relating to this company?

Q. To this company of yours? A. Yes, right here.

Q. Yes, but you said they related to a lot of other things?

A. Well, they relate to the company.

Q. They relate to the company? A. They relate to the company and other things.

Q. Now, have you there, or anywhere else, between 1924 and 1929 any correspondence from this Japanese relating to this company? A. Yes.

Q. Where? A. In San Francisco.

Mr. Macdonald: Did he write to you and did you write to him?

Mr. Robertson: I object to that without the correspondence being produced.

Mr. Macdonald: I want to get the facts. Was it in the way of your writing to him and him writing to you? A. I said we corresponded every three months or every four months. All the time I was there I kept in touch with him.

Q. And is that a letter you wrote to him? A. Yes, sir, 20 that is a letter—

Mr. Farris: There is no date on this.

Mr. Macdonald: No, I see there is no date on that letter.

Q. Can you tell by looking at it when it was written? A. I could tell within possibly a year.

The Court: Well, does it go in?

Mr. Farris: I don't see how that letter is admissible.

The Court: Is it from Wilson to Sanmiya?

Mr. Macdonald: Yes.

The Court: Well, now, what year was it written? You said 30 you could tell within a year? A. Well, I haven't seen the letter yet.

Mr. Macdonald: Look at the letter.

The Court: Are you just trying to be stupid or are you trying to make me appear stupid.

The Witness: I can tell by the address of this letter that it was written before February, 1929.

Mr. Macdonald: That is as near as you can come to it, is it?

A. Well, let me read it now—oh, yes.

The Court. How near do you get to it? A. It would be 40 1926. I can prove that, too, that it would be the first part of 1926.

Mr. Macdonald: "Dear Sanmiya: Just a few lines to let "you know how I am getting along."

Mr. Robertson: He just says things are getting along fine and a few things of that sort.

Mr. Macdonald: In that case my learned friend cannot be hurt.

The Court: Oh, I think it will be all right to let it in.
 Mr. Macdonald: Q. (Reading letter). That is your signature? A. Yes.

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(LETTER MARKED EXHIBIT No. 30).

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Q. When you referred to getting a good price in that letter, Mr. Wilson, what had you in mind? A. I cannot say.
 Q. You hadn't at that time figured out what it was worth?
 A. No. The source I got it from would put a high price on it.
 Q. Higher than \$15,000? A. I never considered \$15,000.
 10 There was no amount mentioned.
 Q. I see.

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CROSS-EXAMINATION BY MR. ROBERTSON:

Q. Mr. Wilson, when did you put your \$3,000 into the defendant company? A. I think April 1st, 1924, would be the date.
 Q. April 1st, 1924. All right. Let me see exhibit 30, please. Looking at exhibit 30—and this is subject to my objection, my lord—you hadn't had any letters before from Sanmiya, had you?
 A. Is that question addressed to me?
 Q. Yes? A. No letters before?
 20 Q. Yes? A. I just told you I had dozens of letters from Sanmiya.
 Q. Were they in English? A. Yes, of course, they were English.
 Q. Then why do you say in this letter:
 "When writing, you can write in Japanese if you wish, "as I can get it translated here. I don't know how you are "on writing in English."
 Now, how do you explain that? A. At that particular time, I had formed a contact in San Francisco with a local Japanese. And
 30 Sanmiya was notorious for the fact that he could not properly explain himself in English. As you can see he writes in broken English when he writes and my letter to him would indicate the same pigeon English.
 Q. If you had had dozens of letters from him in English, prior to writing exhibit 30, why did you say to him, "I don't know "how you are on writing in English. You can write me in Japanese." A. Because I just said he couldn't frankly express himself in English and he couldn't get the shades of meaning.
 Q. Then you did know how he was in English? A. Yes.
 40 Q. Then that statement in that letter is not correct? A. It is in a degree correct insomuch as he could not express himself in a finely shaded understanding of the language—and we had to enter into negotiations that required some explanation.

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Q. But why did you say, "I don't know how you are on writing in English" if you had had dozens of letters from him in English. A. I can show you other letters from him.

Q. Why did you say that to him? A. I cannot say why I said it now.

Q. You said you owned 115 shares? A. That was the original.

Q. Now, didn't you hold those in trust for Sanmiya? Just answer the question? A. No.

Q. You didn't hold those in trust for Sanmiya? A. No. 10

Q. Did Sanmiya hold any authority over you at all? A. No.

Q. Did you get his permission to be away? A. No.

Q. Did you get his permission to be away from British Columbia at all? A. No.

Q. Did you get any of the directors' permission? A. No.

Q. Did you have any arrangement with the directors at all about going away? A. Just the mere fact of telling them I was going away.

Q. But nothing further? A. No.

Q. You sold your shares to Mr. Hewer, didn't you? A. No, 20
sir.

Q. To whom did you sell your shares? A. Well, Garfield King looked after that—you mean the 115 shares?

Q. Yes.

The Court: Are there other shares of yours? A. Yes.

Q. Well, tell us about them. I didn't intend to interrupt you, but he kept saying 115 shares.

Mr. Farris: Well, surely, he doesn't have to look at a memorandum to find that out. Surely the witness knows.

The Witness: No, I don't. I have to look at this. 30

Mr. Farris: Q. To whom did you sell your 115 shares? A. There were only 115 shares originally, but there were ten shares that I was to receive as dividends and they were in Mr. Sanmiya's name. And it is a long time ago and Mr. Garfield King handled the transaction for me and I don't know really who did buy them.

Mr. Robertson: Q. Do you know how much you got for them? A. Yes, \$2,000.

Q. When was that? A. In September, 1931.

Q. And you held—what interest did you hold? A. One- 40
third.

Q. And you got \$2,000 for your third interest? A. Yes.

Q. And you know now that the sale price was \$55,000? A. I do now, yes.

Mr. Macdonald: Q. Did you leave your address with Sanmiya and the company when you went away?

Mr. Robertson: That does not arise out of my cross-examination; I submit if there is anything of that sort in writing, it

should be produced. It would be in writing and the company would have it.

The Court: Q. Did you leave your address with the company? A. Yes, my lord, I left it with Sanmiya. He had it written on a letterhead of the Sanmiya Company.

Q. Did you know Mr. Jackson? A. Yes, he wrote me in San Francisco.

Q. And what would be the nearest that you would get any letter from him? A. In 1924.

10 Q. In 1924? A. Yes.

Q. That is all.

Mr. Macdonald: Q. Did you leave any power of attorney with any one to act for you?

The Court: We have exhibit 29 here now.

(Witness aside).

FRED NORMAN, a witness called on behalf of the Defendant, being first duly sworn, testified as follows:

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Fred Norman
Direct Exam.

DIRECT EXAMINATION BY MR. HOSSIE:

20 Q. You live where, Mr. Norman? A. I am sorry, I am deaf in one ear.

The Court: Then keep away from him and we shall all hear.

Mr. Hossie: Q. Where do you live? A. Fort Langley.

Q. Your occupation? A. Farmer.

Q. Do you know the last witness? A. Yes, he is my nephew.

Q. Do you know Mr. K. Sanmiya? A. Yes.

Q. Of the Vancouver Malt & Sake Company? A. Yes.

Q. When did you first get acquainted with him? A. Well, within a few days before Mr. Wilson left for San Francisco, I think he took me in and introduced me to him.

30 Q. That would be in 1924? A. Yes.

Q. Did you see him after that? A. Yes, frequently I used to see him. One time I used to see him two or three times a month, because I tried to get this thing on its feet in a businesslike way.

Q. I show you a document marked Exhibit 29? A. Yes, I know that.

Q. When did you receive this document? A. Before my nephew left Vancouver.

Q. That would be, then, in 1924? A. Yes.

40 Q. Did you show that document to anybody in connection with the company? A. I am not sure about that. Sanmiya knew I had it all the time. I wouldn't swear that I showed it to him, but I told him I had it and I believe he took my word for it.

Q. When did you first tell him about it? A. He was made acquainted about it before my nephew left for San Francisco.

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Q. Before you discussed the affairs of the company with him.

Mr. Farris: Please don't lead the witness.

Mr. Hossie: Q. What discussions did you have with Sanmiya? What were they in regard to? A. About the business—about the Sake business, principally.

Q. With what in view? A. Trying to make it a success. I was trying to make it a business proposition.

Q. Over what period of time did those discussions of yours with Sanmiya continue? A. Right up to the time he died. 10

Q. He died when? A. Last October—October, 1931, or September—either September or October, I am not sure of the date.

Q. How often would you see Sanmiya during that period? A. Up to the last year I used to see him every two months. The last year of its operation I had practically given it up as a bad job, and I hadn't the time to put in it anyway.

Q. Were you told anything about any arrangement with the Vancouver Breweries, or the B. C. Breweries (1918) Limited? A. No. 20

Q. About selling any rights of the company to them? A. No.

Q. Or about entering into an agreement with them? A. No.

Q. That was never discussed with you? A. No.

Q. Did you ever meet Mr. Jackson?

The Court: Not in 1927.

Mr. Hossie: I am referring to the agreement 12 and 13—this agreement of December 5th, 1927? A. No, I never heard anything about it, and I was seeing Sanmiya at the time and he never mentioned it to me.

Q. You saw him frequently in 1927? A. Yes. 30

Q. Did you see Mr. Jackson at all in connection with this company? A. Not at that time. I met Mr. Jackson about '24 or '25—about a year after my nephew left for San Francisco.

Q. You knew he was a director of the company? A. Yes.

Q. Did you have any meeting with him or discussion. A. Only once. He wrote me once or twice and phoned me on one or two occasions.

Q. When did he write you? A. In 1924 or '25.

The Court: 1924? A. Yes.

Q. Did you have anything later than that? A. No, I never 40 heard from him since.

Mr. Hossie: Q. How often did he write you? A. I think he wrote me once—that was in answer to a letter I wrote him with regard to getting a statement of the finances.

Q. He wrote you twice you say—once on the 13th of January, 1925? A. And once before that.

Q. Once before that? A. Yes.

Q. And did he communicate with you at any other time or in any other way? A. No, except to telephone me last October, 1931.

The Court: What did he say.

Mr. Hossie: He telephoned him last October.

Q. That would be 1931? A. Yes.

The Court: I think I will put that letter in as Exhibit 31.

Mr. Hossie: I am not tendering it as an exhibit. It is just to establish the date.

10 The Court: But you showed it to the witness. I did not show it to him.

Mr. Robertson: Is this the one you got the date from?

The Court: It is just whatever the other side says about it. I don't think you can back up on it.

Mr. Hossie: I haven't seen the letter myself.

The Court: He took it out of his pocket and you took it in your hand—

Mr. Hossie: I just showed it to Mr. Farris. I haven't even read it yet.

20 The Court: You can decide between yourselves whether you want it in or not.

Mr. Hossie: Do you want it in?

Mr. Farris: Yes.

Mr. Robertson: My learned friend has produced a document to the witness, and I think he has to put it in.

The Court: I think so too, if you want it in.

Mr. Hossie: I didn't produce it. The witness took it out of his pocket.

30 Mr. Robertson: My friend having got the witness to produce it he must put the document in.

The Court: I think that rule is quite clear.

Mr. Hossie: I don't think I produced it. He said that Mr. Jackson wrote it and he took it from his pocket.

The Court: He brings it out in response to communications that you are referring to between himself and Mr. Jackson and the Japanese, and surely it is evidence.

(DOCUMENT MARKED EXHIBIT No. 31).

Mr. Hossie: Q. Were you ever in Mr. Jackson's office? A. Yes, about that time in answer to that letter.

40 Q. That would be in 1925? A. Yes.

Q. And you had a telephone at your home at Langley Prairie? A. Yes, after October last year.

Q. But you had a telephone where you lived at Fort Langley? A. Yes.

Q. And you lived at the same address all the time while your nephew was away? A. Yes, and I am living there yet.

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Q. And did you ever visit the plant of the Defendant Com-
 pany? A. Yes.

Q. The sake plant? A. Yes.

Q. At both addresses—at Woodland Drive and on Triumph
 Street? A. Yes, both addresses.

Q. How often did you make visits there? A. Right up to
 last year—every two months and sometimes oftener—sometimes
 when Mr. Sanmiya would call me—

Mr. Macdonald: Let me see that letter.

Mr. Robertson: If you will just excuse me for a moment. 10
 No cross-examination.

(Witness aside).

F. A. Jackson
 Direct Exam.

FRANK ALEXANDER JACKSON, a witness called on behalf
 of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HOSSIE:

Q. You live in Vancouver, Mr. Jackson? A. Yes.

Q. You are a barrister and solicitor of the Supreme Court
 of British Columbia? A. Yes.

Q. And have been practising here since when? A. Since
 1911. 20

Q. And you are still practising now? A. Yes.

Q. During that period did you have any connection with the
 defendant company? A. Yes, I incorporated the company.

Q. For whom? A. For the Japanese Sanmiya and myself.

Q. You had a beneficial interest in the company yourself,
 had you? A. Yes, I had almost a quarter interest.

Q. How many shares did you have? A. Well, I had 85 and
 Wilson had 115 and the Jap had 200.

Q. So by the Jap you mean Sanmiya. Did Mrs. Sanmiya
 the wife of K. Sanmiya have any shares herself? A. Yes. San- 30
 miya transferred most of his shares to his wife after 1924.

Q. How many did she hold after that? A. He still retained
 50 and she then had 150.

Q. Wilson had 115 and you had 85? A. 85. Yes, that is
 in round figures, that is what it is.

Q. There were no other shareholders in the company, or
 were there? A. There was one Japanese by the name of Adami
 who had three of the \$100 shares.

Q. Who were the directors of that company from 1924 on?
 A. Sanmiya and I were the first directors and then when Wilson 40
 came into the company he was the third director.

Q. And who continued to be the directors of the company
 from 1924 on? A. Sanmiya, Wilson and I.

Q. When did Wilson become a director? A. In 1924.

Q. And how long did he continue as such? A. He continued up until 1930, I think—whatever the last annual report says. If I had those reports, I could tell better.

Q. Could you tell by the minute book? A. Maybe.

Q. This is the minute book of the defendant company? A. Yes.

Q. The certificate of incorporation is on the inside of the front cover, I notice? A. Yes.

10 Q. And then the minutes follow from then on. Do you identify those minutes as being the minutes of the company? A. Yes.

Q. And they are signed by whom? A. Well, they are signed by the Japanese Sanmiya and myself, most of them. Some of them are just signed by me and some of them are just signed by him.

The Court: I think the minute book can go in as exhibit 32. As I understand it, it simply goes in as a book. It doesn't prove any facts.

20 Mr. Hossie: But certain inferences may be drawn from the book however.

Mr. Robertson: If my learned friend is going to ask your lordship to draw any inferences from it, I would like to know what inferences he wishes you to draw.

The Court: We occasionally allow the minute book to be put in—it represents a certain amount of evidence—but you can take your objection.

30 Mr. Robertson: And as my friend points out a particular minute I am going to object, because I cannot take time to go through it now and I may have to call evidence on something if he is relying on it. It is a large book.

The Court: I suppose Mr. Hossie has in mind the one he is relying on particularly.

Mr. Robertson: If he would indicate that it would make it easier for me.

Mr. Hossie: Q. Can you tell me from the minute book when Wilson first become a director and when he ceased to be a director? A. Let me see. (Referring to book).

The Court: You have sat there all day, Mr. Jackson, and you might just as well have had this ready? A. Yes, sir.

40 Mr. Hossie: Maybe you can tell better from the annual reports? A. Yes, I can tell quicker from that.

Mr. Farris: Here they are. I have them right handy. And in the meantime let me have a look at the minutes, Mr. Jackson.

The Witness: Just a minute now.

Mr. Hossie: Q. Can you tell from any of the reports? A. I can tell you now. I have got it at last. It was in 1924.

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Q. When did he cease to be a director? A. He ceased to be a director in 1930.

Q. In 1924 Wilson went away? A. I beg your pardon?

Q. Wilson went away in 1924 and went down to San Francisco? A. Yes, somewhere around that time.

Q. Did you have any correspondence with him while he was away? A. I might have written him a letter and I might not. I don't remember.

Mr. Hossie: Has the minute book been marked yet?

The Registrar: No. It will be exhibit No. 32.

10

(MINUTE BOOK MARKED EXHIBIT No. 32).

Mr. Hossie: I am sorry—I was interrupted.

Q. Did you have correspondence with him in San Francisco?

A. I think it was in 1924 he went to California.

Q. Did you write to him there? A. I might have written him a letter.

Q. Did you have his address? A. Yes, I got his address from the Japanese Sanmiya.

Q. When did you get that? A. Well, I suppose it was somewhere about the time he went away or after he went away.

Mr. Robertson: I object to this evidence because he simply says he might have written him.

The Court: Who was the secretary of the company? A. The Japanese was the secretary.

Q. And who was the president? A. I was the president.

Mr. Robertson: I object to this, because he only says he might have written to him and he might not.

The Court: It does not prove anything at all.

Mr. Robertson: No, it doesn't prove anything at all.

The Court: Q. Were the books kept in your office? A. Yes, that is, the minute book was kept in my office.

Mr. Hossie: Q. Did you write this letter to him, exhibit 31? A. Yes, it is my signature and my letterhead.

Q. Did you write any other letters—to Wilson or to Mr. Norman? A. I don't recall writing any other letters.

Q. Does this minute book contain all the minutes of the meetings of directors of the company? A. Yes.

Q. Your position as director ended the same time as Wilson's, in 1931? A. No, I continued up until the time Hewer bought the shares.

40

The Court: Q. How is it Wilson's ended the year before. A. Well, the Japanese told me he had bought—another Japanese by the name of Yamasaki had bought Wilson's shares.

The Court: Well, did he then send in his resignation? A. No, he didn't. But I was getting out these annual reports, and I said to Sanmiya, "well, is Yamasaki going to be a director?"

Q. Then how did you get rid of him as a director if he did not send in his resignation? A. Do you mean get rid of Wilson?

Q. Yes? A. Well, we didn't have any formal resignation and Yamasaki had not bought those shares but Sanmiya told me he had.

Q. Well, then, Wilson was a director? A. Yes.

Q. And was year after year. Did you elect Wilson a director every year? A. Not in a formal meeting.

Q. Well, how did you do it? A. Well, there was just the
10 two of us here, Sanmiya and myself.

Q. And you would meet each year and hold your annual meeting and elect directors? A. No.

Q. Well, why do you say Wilson was a director in 1927, for instance? A. Because we continued to regard him as a director.

Q. I am not here to try what you regarded him as. You have made this a very important issue in the case. You have stated he was a director from 1924 to 1930 and I want to know why you said that.

Mr. Hossie: Q. If you will turn up the minutes that will
20 probably be the easiest way. Take the minute of the first annual meeting. You were appointed a director according to the minutes? A. According to the minutes, the directors were Sanmiya, Wilson and myself.

Q. That is recorded in a minute of the company as contained in exhibit 22 dated the 20th of June, 1924? A. Yes.

Q. Now, will you turn up the next minute, please, for 1925, for the second annual meeting? A. Yes.

Q. The minute is dated the 20th of June, 1925? Will you
30 read the last minute there? A. Yes, it says the Japanese, Wilson and myself—

Q. Just read the minute? A. "It was resolved unani-
"mously that Mr. Frank A. Jackson, S. N. Wilson and K. San-
"miya the retiring directors be re-elected directors of the com-
"pany. The meeting then adjourned."

Q. And take the 20th of June, 1926, minutes of the third
annual general meeting, of the directors? A. Yes, it reads:

"It was resolved unanimously that Mr. Frank A. Jackson,
"S. N. Wilson and K. Sanmiya, the retiring directors, be re-
"elected directors of the company. The meeting then adjourned"

Q. And take the year 1927? A. "It was resolved unani-
40 "mously that Mr. Frank A. Jackson, S. N. Wilson and K. San-
"miya, the retiring directors, be reelected directors of the com-
"pany."

Q. And 1928. A. "It was resolved unanimously that Mr.
"Frank A. Jackson, S. N. Wilson and K. Sanmiya, the retiring
"directors, be reelected directors of the company."

Q. The same thing? A. Yes.

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Q. And 1929 the same? A. Yes.

Q. And in 1930? A. In 1930 it says, "It was resolved un-
 "animously that Mr. Frank A Jackson, Mr. K. Sanmiya and Y.
 "Yamasaki be appointed directors of the company"

Q. So Mr. Wilson was not reelected then? A. No.

Q. And your recollection is correct then? A. Yes.

Q. Who had the custody of the seal of the company? A.
 Well, it was kept in my office.

Q. Now, in 1927 did you hear anything of certain negotia-
 tions with regard to the sale of some of the company's rights? 10
 A. Well, I—

Q. Give me exhibits 12 and 13, please. When did you first
 hear of them? A. I first heard of the negotiations when San-
 miya brought those two documents to my office for my signature.

Q. Those are exhibits 12 and 13? A. Yes.

Q. Do you remember what date that was, Mr. Jackson? A.
 The only thing I can say is that it was on or about the dates they
 bear—the 5th of December, 1927.

Q. Was anyone else present? A. No.

Q. Then in what condition were the documents at that time? 20
 Will you examine them now and see if they are the same now as
 they were then? A. Well, I say that when I signed the docu-
 ments—

Q. Well, was that the time you signed it that day? A. Yes,
 the same day—that when I signed the documents the erasing of
 these words "British Columbia Breweries (1918) Limited" had
 not taken place.

Q. Were there any other signatures on the documents when
 you first saw them? A. No.

Q. Was there any other writing on the document? A. Eh? 30

Q. Was there any other writing on the document? A. No,
 except—

Q. Except what? A. Except the Japanese might have
 signed it before he brought it to my office, or might have signed
 it in my office.

Q. You are not clear about that? A. No.

Q. What other writing was on the document when you saw
 it? A. Well, nothing except "Vancouver Malt & Sake Brewing
 "Company Limited and British Columbia Breweries (1918)
 "Limited." And that was all. 40

Q. Do you remember the word "director" twice occurring
 there?

Mr. Farris: Please don't lead him.

Mr. Hossie: All right.

The Witness: No, I don't remember as to that.

Q. Were the seals of either company on when you first saw
 it. Was there any seal affixed to it at that time? A. No.

Q. Do you remember the front page of the document? A. I don't particularly remember the front page of the document.

Q. Do you remember particularly whether there was any alteration in it at the time you first saw it? A. I don't remember particularly, but I don't think there was.

Q. Well, then, when did you sign the document? A. I signed it then and there when the Japanese brought it to me.

Q. And you signed where—how much of the writing is yours? A. "Per Frank A. Jackson, Director" on both copies.

10 Q. And is this stroke over the "t" in your writing? A. Yes, that is the crossing of the letter "T" in "director."

Q. And that was written— A. By me.

Q. In your handwriting? A. Yes.

Q. Is there any of the rest of it in your handwriting? A. No.

Q. Did you hold a directors meeting at that time? A. No.

Q. Is there any minute made covering that document? A. No.

Q. Was there any reference made to Wilson? A. Yes. I told the Japanese that—

20 Mr. Robertson: That surely isn't evidence—conversations between Sanmiya and Mr. Jackson, in Mr. Jackson's office.

The Court: If you do not want it in, I will exclude it. It isn't evidence in their favor.

Mr. Hossie: Q. Did you communicate with Mr. Wilson with regard to these negotiations? A. No.

Q. Or did you communicate with Mr. Norman at that time? A. No.

Q. Did Sanmiya communicate with him? A. Not to my knowledge.

30 Q. How long was the Japanese in your office at that time—long or short? A. A short time.

Q. And you affixed the seal at that time, did you? A. Yes.

Q. And when he left there what did he take with him? A. When he left he took both copies of the document.

Q. Were you in Col. Tobin's office at all in connection with this matter? A. No.

Q. Was he in yours? A. No.

40 Q. Did you see the Japanese again after he left with those two documents, after you had affixed your signature? A. You mean within a short time?

Q. Yes? A. Oh, yes, I saw him occasionally.

Q. When did you next see either of those documents, or any copy thereof? A. Oh, it was about a year later after their date.

Q. At that time what condition was it in—were they in, rather, because I presume you only saw one copy? A. Yes, I saw that one—that is exhibit "B."

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Q. Had any alterations been made in it at that time? A. I didn't pay very much attention to the document at all after I saw it at that time.

Q. You didn't see it for a year after? A. No, not for a year after.

Q. Was there any reference made to you in regard to any changes that were made in the document? A. No.

Q. At no time? A. No.

Q. Did you take the matter up with Wilson at any time?

A. No. 10

Q. Or with Norman afterwards? A. No.

Q. Was any meeting of shareholders held in regard to this document? A. No.

Q. Or notices issued? A. No.

Q. Was any money paid to you in respect of this document or agreement? A. No.

Q. The company only had one brewing licence and one maltster's licence, I believe? A. Yes.

Q. Per year? A. Yes.

Q. Which was renewed from time to time? A. Yes. 20

CROSS-EXAMINATION BY MR. FARRIS:

F. A. Jackson
Cross Exam.

Q. I understand that you don't remember whether Sanmiya had signed this document when it was brought to you or not?

A. Yes, that is true.

Q. It is true you don't remember? A. Yes.

Q. Then what I can infer from that, Mr. Jackson, is that you cannot fix in your mind very definitely just what was on that document which was brought to you? A. Well, I think I can.

Q. You think you can? A. Yes.

Q. Had you any particular interest in the name of the company—wasn't your interest in the money? A. I wasn't interested in the name of the company at all. 30

Q. You didn't know any difference between the Vancouver Breweries Limited and the British Columbia Breweries (1918) Limited? A. No.

Q. What you were interested in was getting the \$15,000?

A. Yes.

Q. And which you got? A. The company was getting it.

Q. And which the company got? A. Yes.

Q. And it was applied entirely for company purposes wasn't it? A. Yes. 40

Q. Now, during the years, 1924, 1925, 1926, and 1927 was this defendant company operating in the brewing of sake? A. Yes.

Q. And the only two local directors managing the business during that time were yourself and Sanmiya? A. Yes.

Q. And you two, over a period of years, in fact up to 1930 conducted the business of that company? A. Yes.

Q. And every year you made annual reports to the authorities at Victoria? A. Yes.

Q. And held the necessary directors' meetings from time to time? A. Yes.

Q. There would be several in each year necessary, wouldn't there? A. Yes.

10 Q. But it so happened that you did not keep a record of these directors' meetings? A. No, we didn't keep a record of them. I might say in qualification of what I have said there that the Japanese pretty well ran the thing himself. He didn't consult me very much.

Q. Now, I notice in question 82, when Mr. Robertson examined you for discovery:

20 "Q: Do you know why it was that there were no minutes of meetings of directors between 1924 and 1931? A. Well, the reason was this, the affairs of the company were not progressing very favourably, and I, as the secretary of the company, was not getting any money, and I was not taking a very great interest in it."

Is that correct? A. Yes.

Mr. Robertson: If your lordship would allow us just a moment.

Mr. Farris: Q. Now, how many times have you seen these documents, exhibits 12 and 13—exhibit 12 or the copies? A. Well, exhibit 12 I have seen for the first time today.

Q. Yes—well, one of the copies—

Mr. Robertson: Exhibit 12. A. Yes, that is the original.

30 Q. Well, there is your signature on it? A. Well, outside of when I signed it first. That is what you mean, isn't it?

Mr. Farris: Q. I say how many times have you seen exhibit 12 or one of the duplicates? A. Well, the duplicate, exhibit 13, has been in my possession since about a year after its execution.

Q. How did you get it a year afterwards? A. I asked the Japanese for it.

Q. And he had it in his possession? A. Yes.

Q. And you received it and kept it in your possession ever since? A. Yes.

40 Q. And in addition to that, you were examined for discovery about this matter? A. Yes.

Q. Did you see any correspondence between Col. Tobin's firm and the Japanese in which these documents were forwarded? A. No, I didn't.

Q. Did you not get a letter yourself about it? A. I got a letter last year.

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Q. Enclosing one of these documents? A. Last year, about the document.

Q. Let me see this letter? A. It wasn't sending me an original document.

Q. What? A. It wasn't sending me any original document.

Q. Now, this is the letter of June 10th, 1931, signed by Pattullo & Tobin, per H. S. Tobin, and it is headed "Vancouver Malt & Sake Brewing Company Limited," and it sets out an agreement between the Vancouver Breweries Limited and the Vancouver Malt & Sake Brewing Company Limited. Now, I want to know, Mr. Jackson, if at any time when you say you received this document a year after—when you received this letter from Col. Tobin on June 10th, 1931—or when you were examined for discovery, if this document wasn't as you received it originally? A. No, it wasn't, and you asked me no questions about that at all.

Q. Now, I say you saw this document that showed clearly the Vancouver Breweries Limited? A. When?

Q. That letter of Colonel Tobin's shows it to you as the Vancouver Breweries Limited? A. In 1931, yes.

Q. And the document which you had in your possession a year afterwards showed it as the Vancouver Breweries? A. Yes.

Q. And you knew that at the time you were being examined for discovery? A. Yes.

Q. And I say there was no suggestion from you at any time that those documents were not as they were when they were signed? A. No, none whatever.

Q. I say there was no suggestion from you at any time that these documents had ever been executed by any other company namely the British Columbia Breweries (1918) Limited? A. No suggestion by me—either to Colonel Tobin or to Mr. Robertson when examining me.

Mr. Robertson: If your lordship would allow us just a moment.

Mr. Farris: Q. Now, what date was Wilson bought out? A. In 1931, in September.

Q. What part of September? A. The early part of September.

Q. Well, was it while these negotiations were on? A. Yes.

Q. And how much was he given for his shares? A. \$2000.00.

Q. And how much was the total purchase price whilst these negotiations were on? A. \$55,000.00.

Q. Was Wilson told about this deal? A. No.

The Court: Who bought him out? A. The Japanese, Mrs. Sanmiya.

Mr. Farris: Q. Who was associated with you in this company? A. At that time I had no interest in this company whatsoever outside of holding one share.

Q. You signed this agreement? A. Outside of holding the necessary one share as a director.

Q. Well, the fact is, Mrs. Sanmiya who was the wife of the man who had been a director, and who was associated with you as solicitor of the company, and also a co-director with her in the company, you were negotiating for the shares in this company for
10 \$55,000.00? A. Yes.

Q. And while that was going on this man Wilson's shares were bought by your co-director for \$2000. while the deal was going on? A. Yes, Wilson had offered to take \$1000.00 for his shares sometime before that.

The Court: And you think that that justified the transaction?
A. No, I am not excusing it at all.

The Court: I do not think you had better try.

Mr. Farris: All right.

The Court: I will relieve your mind. I think you are utterly
20 mistaken about that document, because I accept the evidence of Mr. Reifel and Colonel Tobin on that.

RE-DIRECT EXAMINATION BY MR. HOSSIE:

Q. Did you have anything to do with the sale of Wilson's shares? A. The Japanese went to see Garfield King, and I also saw Garfield King after he had seen him.

Mr. Farris: Then you did have something to do with it.

Mr. Hossie: Q. What did you have to do with it? A. I had to do with the final closing of it after they made the deal with Yamasaki.

30 Q. But Garfield King was acting for Mr. Wilson at the time?
A. Yes, he was acting for Wilson at the time.

Q. All right, thank you

(Witness aside).

HENRY MOYER MACLEAN, a witness called on behalf of the Defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HOSSIE:

Q. Where do you live? A. In Vancouver.

Q. What is your occupation? A. Teacher of handwriting, in the Vancouver Normal School part time, and the rest of the
40 time I conduct work in handwriting through correspondence, and the examination of documents—questioned documents.

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Q. How long have you been engaged in that work? A. About 20 years.

Q. Where? A. In Vancouver, since 1916, and previous to that in Victoria.

Q. During that time you have examined a number of questioned documents, I presume? A. Yes.

Q. And given evidence in respect of them during that time? A. Yes.

Q. You have examined the documents marked Exhibits 12 and 13, I believe? A. Yes. I have examined both of those documents. 10

Q. Now, will you tell me first, Mr. MacLean, looking at the front page of each document what was first typed on this page, and what was subsequently typed in sequence, if you can, from the document itself? A. Well, this document, Exhibit 12, was originally typed on the typewriter. This one is a carbon copy with the exception of a certain section in here, commencing at "A body "corporate" and \$15,000.00 down here—an erasure has been made in both documents where "Vancouver Breweries Limited" now occurs; and is initialed "H. S. T." 20

Q. What was in the space where the erasure has taken place, can you tell? A. I couldn't tell absolutely definitely. I could pick out "British Columbia" and I could pick out "19"—and the word "Limited," but I could not pick it all out.

Q. Well, we have heard it was "British Columbia Breweries "(1918) Limited." You would assume that to be correct? A. Yes.

Q. And the date? A. 5th of December, 1927, and the carbon copy is the same.

Q. That is put in original typing in the document? A. Yes.

Q. Then on the second page with regard to the typing, was there anything typed subsequent to the original impression of the document? A. Well, this \$15,000.00—not the sign "\$," but the 15,000 in figures was originally typed. 30

Q. That is subsequent to the original impression? A. Yes.

Q. Now, with regard to the handwriting on the document you have had an examination of that? A. Yes.

Q. And what do you say in regard to that as to the sequence of the impression of the writing? A. The sequence on which document?

Q. Well, you may use them both now. 40

Mr. Robertson: Well, tell us which one he is using?

Mr. Hossie: Which one do you want to use? A. I will pick out the first, Number 12. The original, the British Columbia Breweries (1918) Limited here was struck out by wavy lines, and

the signature "Per Frank A. Jackson," with a cross under that, is superimposed on the "L" in "Limited"—"British Columbia Breweries (1918) Limited," from which I conclude that Jackson's signature, or that cross to the right of his signature was written after the "L" in "Limited"—"British Columbia Breweries (1918) Limited" and the "r" in the word "Director" beneath Frank A. Jackson's signature is also superimposed on the "L" of "Limited;" and so I conclude that was written after the "British Columbia Breweries (1918) Limited." was written. So far as I can find out there is no coincidence of anything in connection with the word "Director" and the strike out lines, so I cannot tell which was written first, or the sequence of writing the word "Director" below "Frank A. Jackson" and the strike out words.

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Q. They don't coincide at any point? A. No, they don't coincide at any point, no.

Q. Can you tell in whose handwriting the word "Director" is? A. The word "Director," above the strike-out, I would say is in the handwriting of the person who wrote "Per Frank A. Jackson."

Q. And is there any similarity in the handwriting? A. Yes. "Vancouver Malt & Sake Brewing Company Limited," in my opinion was written by the same person who wrote "British Columbia Breweries (1918) Limited" and "Vancouver Breweries Limited." and the word "Director" under Sanmiya's name, and the word "Director" under Henry Reifel's name.

Q. And can you determine who wrote the strike-out?

Mr. Farris: Who did which—you mean the stricken out part.

Mr. Hossie: Yes.

The Witness: I couldn't determine that definitely because the pen would be probably held in a different position here than what it would be held in doing his ordinary writing.

Q. Now, from the other copy of the document what conclusions do you come to? A. Exhibit Number 13, so far as any similarity of handwriting is concerned, in my opinion "Vancouver Malt & Sake Brewing Company Limited" was written by the same person who wrote the word "Director" under "Sanmiya" and who wrote "British Columbia Breweries (1918) Limited" and who wrote "Vancouver Breweries Limited" under that, and who wrote the word "Director" under "Henry Reifel."

Q. Now, can you tell me as to the time when the different writing took place? A. The sequence in this document, "British Columbia Breweries (1918) Limited" which has been struck out was written and superimposed on that, as in the other document, and this stroke under the word "Jackson" indicates to me that

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that stroke under "Jackson" was written after the word "Limited" in "British Columbia Breweries (1918) Limited." Now, there is a coincidence. There is a meeting of lines in the top part of the strike out with some of the letters in the word "Director" and that strike out is superimposed on some of the letters of the word "Director."

Q. Indicating what? A. Indicating that that strike out was made after the word "Director" was written in there.

Q. Have you examined this with a glass? A. I have examined this with various degrees of magnification. 10

Q. What degrees? A. Well, I have examined it with an ordinary handglass which I have here, and it makes it fairly evident, and then with different degrees of magnification up to a compound microscope.

Q. At what magnification? A. It would be magnification of possibly 200 diameters.

Q. Well, from what facts do you determine the strike-out line is superimposed on the word "Director" and was therefore written later. The word "Director" you are referring to is immediately under the word "Jackson?" A. Yes. The strike out here, which is a wavy line, superimposes the lower loop of the "D" in "director." 20

Q. How can you tell it superimposes it? A. By the tracks of the pen—the two tracks of the pen are very evidently superimposed on the writing on the letter "D" of "Director" and following that pen through the strike out part, it is superimposed on the other part of the "D." That is, there are two loops on the "D" and this is superimposed on both of those loops. And then carrying on, it superimposes the letter "i" in the word "Director." The pen tracks are very evident there, and not so clear over the "r" or the "e;" and the "e" and "c" of the word "Director" are very poorly made. The "e" isn't looped, nor is the "c" well made. But there is a superimposing of that strike out in what is supposed to be what I think is the "c" of "Director." From there on it is pretty difficult to tell, because there is quite a jumble of lines. 30

Q. But you have satisfied yourself on that superimposition, however? A. I have satisfied myself on the superimposition on those particular points that I have referred to.

Q. The word "Director" was written then, when, with reference to the strike out and the "Vancouver Breweries Limited." A. It was written before this particular strike out was made. 40

Q. Do you notice on Exhibit 12 the position of "Vancouver Breweries Limited?" A. Yes, it is between the words that are

struck out and the signature which I think is Henry Reifel's, although I am not sure of that.

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CROSS-EXAMINATION BY MR. FARRIS:

Q. Would you mind showing me with your glass on Exhibit 13 the superimposed line on the word— A. The "D" of "Director?"

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Q. Yes? A. Very well.

The Court: Q. Which one are you working on, 12 or 13?

Mr. Farris: 13, there is nothing in 12.

10 The Witness: You can put your eye close to it. You can see the outline of the capital "D" first, and then can see the wavy strike-out line—I will get a little larger glass, and you can see the point I refer to here. Possibly you can get it from there. (Indicating). Do you see where it is superimposed on the "D," and then on here.

Q. Now, how many lines are there running through the struck out words "British Columbia Breweries (1918) Limited." A. Well, it is rather difficult to tell on the extreme right, but there are two wavy lines up to that point.

20 Q. And there appears to be at other points, more to the left, at least three wavy lines, are there not? A. Well, as I say, it is very difficult to count the wavy lines.

Q. Now, how many of the wavy lines have been superimposed on the word "director?" A. One, so far as I can see. Just pardon me a moment, I think only the one—yes, only the one wavy line.

Q. Now, that wavy line is the heavy wavy line? A. You mean this?

30 Q. Of the wavy lines it is the heavier? A. No, I think it is the lighter.

Q. The lighter—I thought differently. A. No, that is the upper one. This is the upper one superimposed directly here, and this is the lower. You can get it better by looking right down on it perhaps with a hand glass.

40 Q. Is there any way of telling whose writing it was that struck that line which is superimposed as you say on "Director?" A. I studied that very closely, and I couldn't give any definite opinion because of the fact that it is a wavy strike out line without any attempt to write anything, and I could not give an opinion on that definitely.

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Q. Let me see that again, will you. Which of the two lines are superimposed on the other—the heavier or the lighter one of the wavy lines? A. I should think the heavy one is superimposed on the lighter one.

Q. I would say to the contrary, and you seem to have some doubt about it? A. It is very difficult to tell, when you have a very heavy line, and a very light one.

Q. You may be mistaken about that, don't you think? A. I would have to give it a little more studied examination.

Q. You can see that the lighter line is traced distinctly through the heavier line. I would ask you to look again and see if that isn't so. A. If you will point it out to me? 10

Q. Let me see if I can get it for you? A. I don't know whether I can see the same thing as you do.

Q. Right at that point there—have you got it—I suggest at that point the lighter line is clearly and distinctly traceable over the heavier line. Now, isn't that so from what you can see there? A. I will look through a stronger glass.

Q. Well, look at it through that glass. Isn't it clear? A. No, if it were clear I would say so. 20

Q. I don't understand you? A. If it were clear I would say so.

Q. Would you? You watch where I am tracing. I am tracing this line that runs down that way. Have you got that line right from there that runs that way? A. Well, you have put your pencil there.

Q. Well, that will be superimposed on the second one. You can see them both there—that line where my pencil is indicates a half loop over the heavy line. It is clearly traceable over the other line. If you don't see it say so. I want his lordship to see it? A. I would say that that heavy line is superimposed on that lighter line. 30

Q. Well, if that is what you say I think you ought to have your eyes examined, or I ought to have mine examined, one or the other—and they were a month ago.

Mr. Hossie: You both wear glasses. That is fair enough.

The Witness: Let me see it. This particular stroke right here, my opinion is that that stroke is superimposed on this one.

Q. And which is which? A. This is what you would call the heavier one and this is the light one. That is, the one that is perpendicular here superimposes the other one. 40

Mr. Hossie: Wouldn't it be simpler to identify these strokes by reference to the enlargement.

- Mr. Farris: Now, come over to this one. There can be no doubt about the one to which I am pointing? A. I cannot see the one you are pointing to.
- Q. Now, there is the top of the line that I say goes down—have you got it? A. Yes.
- Q. It goes down in a loop around— A. Yes.
- Q. It clearly goes over the other one? A. No, it isn't clear to me.
- Q. Well, I am going to ask your lordship to look at it before I go to a doctor to have my eyes examined. A. The point of this other one projects up into this little part which you speak about.
- Q. Would your lordship care to look at this?
- Mr. Hossie: I think it is a matter for experts.
- The Court: What do you want me to look at.
- Mr. Farris: The lighter line comes from there, and my suggestion is that this one was the one that was made last, if your lordship can fix your eye on that point before I take my pencil away.
- 20 The Court: Your suggestion is that that was made last.
- Mr. Farris: Yes, you can see the whole outline through the heavy one.
- The Court: I do not see any doubt about that.
- The Witness: May I see what you are pointing to?
- Mr. Farris: I have given it to the witness four times.
- The Witness: But there are two points I wish to make sure on.
- The Court: I would say that that line comes down—that lighter line comes down? A. Which one are you referring to?
- 30 Q. I would say that line comes down there and is superimposed on this one where my pencil is marked—this light line comes down? A. Oh, that light line.
- Q. Yes? A. No, that is part of the word "Breweries."
- Q. Well, that is the line that Mr Farris showed me. A. That was why I wanted to make sure we were on the same line. Do you mind, Mr. Farris, just for a moment looking at this. His lordship is referring to this particular line. I will show it to you on the enlargement—To this particular line of that wave—that is the one.
- 40 Mr. Farris: Q. Well, I say that that line looks to be clearly over the top of the other one? A. My impression was that you were speaking of this one—which one are you showing me.
- Q. You say that is part of the "D?" A. I was looking at another point altogether. Now, is this the end of the line that you see.
- Q. I say is there any doubt that the line that you are talking about is superimposed on the heavier line? A. Let me get this

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clear. This is the end of the line that you are referring to now?

Q. Yes? A. You are referring to this line?

Q. Yes? A. Well, that isn't the line at all.

Q. Well, look at that one? A. In my opinion that particular light line superimposes this other line at the bottom. That is where I am pointing my pencil now.

Q. And then we have the remarkable situation the word "Breweries" was written there, according to your theory, after scratching it out? A. I cannot picture it there as part of the "B."

Q. But there is no other part there for "B" that I can see, so everything is impossible according to this. Nothing could be more perfectly distinct than that light line through the heavy line, could it. You can see it in every detail? A. I want to get—

Q. I have got you stumped on that all right? A. I want to get the exact line you are referring to.

Q. Well, you know the one I am referring to. It is the large loop in the "B."

Mr. Hossie: Would the large microscope help you. A. No, there are three lines there. (Examining same).

Mr. Farris: Q. Well, I can't wait any longer. I don't know whether Mr. Hossie wants to or not? A. There is a particular stroke there going through this particular down stroke at this particular point. There is a line going through there and it is impossible to tell whether that line was superimposed on the other or not.

Q. All right. We have all seen it. Now, isn't it a remarkable fact in this particular exhibit you are now looking at, how far the Henry Reifel is below the words struck out? A. I don't catch you question.

Q. I say, assuming "Henry Reifel" purported to be written there, as per Henry Reifel, under "British Columbia Breweries (1918) Limited," isn't it rather remarkable how far the "Henry Reifel" is below the words struck out? A. Well, there is plenty of space there, ample space.

Q. I should think there was. Your lordship might notice that on this document. Assuming Henry Reifel signed when this was there, and this wasn't—it is away below—it is a matter of comment, as compared to all the others. If this line wasn't there.

The Court: I am not sure about that. What is the difference about that—if Exhibit 12 was properly executed by both parties, I do not know of any law requiring this to be made in two parts.

Mr. Hossie: All he says is he cannot determine where the word "Director" under the word "Jackson" was written and there is no suggestion by either party that they were both executed at the same time.

The Court: I do not want to stop either party from getting this on the notes, but I have had two credible witnesses who have sworn to it specifically and I believe them.

Mr. Hossie: I am certain your lordship has made up your mind on the point.

The Court: You are not going to convince me by expert opinion that they have told an untruth.

Mr. Hossie: Your lordship has the evidence both ways.

The Court: Mr. Reifel comes in and says "This isn't the
10 "right company. They haven't a licence." And Mr. Tobin
changed it immediately, and they executed it, and why you should
spend a week on it, when they have a document, Exhibit 13, all
executed and sealed by the parties, I cannot see why, but I do not
want to stop you.

RE-DIRECT EXAMINATION BY MR. HOSSIE:

Q. Mr. Farris has commented on the fact that there is a wide
space between the words struck out and "Henry Reifel" on 13.
Is that true on Exhibit 12? A. No, there isn't so much space
between "Henry Reifel" and the part struck out on Exhibit 12 as
20 on 13.

Q. Do you notice the words "Vancouver Breweries Limited"
how they are written in there. Do they overlap? A. There is
a coincidence with the "H" of "Henry" and "R" and the dot.

Q. The space is very narrow there, isn't it?

Mr. Farris: I don't think my learned friend should give
evidence.

Mr. Hossie: How does it compare as regards space? A. I
think it could be more than twice—

Q. Could you measure it now?

30 Mr. Farris: Everyone can see it. In fact I am willing to
concede one is wider than the other.

Mr. Hossie: It looks to me a good deal more than twice, but I
am not an expert.

Q. Take opposite the capital "R" of "Reifel," how much
space is there on 13 between that and the words "British Columbia
"Breweries (1918) Limited." Measure it? A. About 17 milli-
metres.

Q. And the same position on the other between the top of
the "R" and the bottom of "Vancouver Breweries (1918)
40 Limited" how many millimetres? A. About four.

Q. And is that space uniform on each from end to end—
roughly uniform? A. Yes, but there is a little more space on
the right hand side than there is on the left.

Mr. Farris: Let me have one of your glasses.

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Mr. Hossie: Well, there is approximately four times as much space on Exhibit 13 as on 12? A. Well, I have given you the measurements.

Q. Now, can you tell, Mr. MacLean, by looking at the strike out line on Exhibit 13, where that portion of the strike out line which superimposes the word "Director" whether it is a continuation of the remainder of the strike out line between "British Columbia Breweries (1918) Limited," or whether that line is broken at any point? A. I think it is continuous. If I might use that glass, Mr. Farris, please. Never mind, I will use this one. 10

Q. You see the line I mean. I mean the strike out line which coincides with the word "Director" under "Jackson's name? A. Yes.

Q. Is it broken or continuous? A. It is continuous. When you get over the word "British" there is a jumble of lines, but up to that time it is continuous.

Q. Well, then, can you tell, or did you state so, whether the light line superimposes the heavy line, or whether the heavy line superimposes the light line? A. The top strike out line superimposes a number of letters in the word "Director." 20

Q. I am speaking of the strike out lines. Which one superimposes the other. I thought you said the light line superimposed the heavy one? A. I cannot tell you without taking a little time to examine it.

Q. Will you take a little time to examine them. And then how long will it take for you to tell us? A. It would take very little time. Of course the superimposition of a light line over a heavy line is rather a difficult thing to tell, because you can make a light line over a heavy line, and even if it is superimposed it very often looks as if the heavy line were superimposed on the 30 light line.

Q. Well, you can take some time to examine that to-night? A. Well, I could tell you in half a minute, if I could form an opinion, and then I can suggest in a short time what my opinion is.

The Court: I will allow you to call him back tomorrow.

Mr. Farris: And there might be other questions which will arise at a later stage.

Mr. Farris: Q. Will you put your glass on Exhibit 12, on the top of the loop in the "R" and tell me if it isn't as clear as the nose on your face if that "R" wasn't made and superimposed— 40
 A. I have examined that, and I will give it as my opinion that the "R" is superimposed.

Q. Well, I am glad you say that? A. I am here to give you the facts as I see them.

Mr. Hossie: By the way, is it possible to determine the regular sequence of lines from a photograph that is an enlargement?

A. Not so easy.

Mr. Farris: I gave him this.

The Court: Well, all right, you will finish that other point in the morning. If you have any other witness, why not call him.

The Witness: May I ask definitely which document you want me to examine, 12 or 13?

Mr. Hossie: The one which superimposes the word "director."

The Witness: That is 13. And then you want to know the sequence of the strike out lines.

10 Mr. Macdonald: Might the witness have that document overnight to study it?

The Witness: Yes.

Mr. Hossie: He had better have them both, I suppose. (Witness aside).

Mr. Hossie: Does your lordship want me to call another witness.

The Court: I think you had better.

HERBERT GOODMURPHY, witness called on behalf of the Defendant, being first duly sworn, testified as follows:

20 The Court: You are the man from the City Gaol, are you?
A. I am.

DIRECT EXAMINATION BY MR. HOSSIE:

Q. You live in Vancouver? A. I do. That is, in North Vancouver, rather.

Q. And your occupation? A. Detective for the Vancouver Police Force.

Q. And your particular line of work? A. Identification of handwriting.

30 Q. And with what particular means of identification are you familiar? A. I am in charge of the finger print records and photographs, etc., in connection with the department, and also I identify handwriting.

Q. And how long have you been engaged in that work? A. Specifically since 1920. And I have been in charge of the Identification Bureau.

Q. You have examined these documents, Exhibits 12 and 13? You have examined these documents, 12 and 13? A. Only insofar as the writing on the document appears—that is, the handwriting on the documents.

40 Q. And what have you to say as a result of your examination in regard to the relative sequence of the different writing on the two documents.

The Court: Take them separately. Take 12, for instance.

Mr. Hossie: Take whichever one you like first. A. In Ex-

RECORD

*In the Supreme
Court of British
Columbia*

Defendant's
Case

H. M.
MacLean
Re-direct
Exam.

June 1, 1932
(Contd.)

H. Good-
murphy
Direct Exam.

RECORD
*In the Supreme
 Court of British
 Columbia*
 Defendant's
 Case
 —
 H. Good-
 murphy
 Direct Exam.
 June 1, 1932
 (Contd.)

hibit 12—in making my examination of the strike out line, “British Columbia Breweries (1918) Limited,” I noticed particularly that the top strike out line there—have I got the right document. Pardon me just a moment. No, I am sorry, I haven’t had an opportunity of examining this Number 12 until today. It was Number 13 that my examination was more specific with. And the photograph copy of 12, in connection with the strike out lines, of “British Columbia Breweries (1918) Limited” I noticed particularly that the top strike out lines superimpose certain letters of the word “Director.” 10

Q. Where? A. Above.

Q. That is under the word “Jackson?” A. Above the words “British Columbia Breweries (1918) Limited” and below the word “Jackson.”

Q. How many letters are superimposed? A. Well, I would have to have my glass for just a moment again, if you please. It superimposes the lower portion of the “D;” the low part of “i” and a portion of the “r;” through the lower portion of “e” and it merely touches the lower part of “c” and the base of “t,” and it doesn’t go any further. That is, it doesn’t touch the “o-r.” 20

Q. Can you tell me whether that strike out line to which you have just referred is continuous or broken? A. The line is continuous.

Q. And can you tell me whether it superimposes, or is superimposed by the other strike out line, the heavier one. Well, perhaps you can look at that tonight and tell us in the morning? A. I would prefer that.

Q. Or would you rather not tell us tonight? A. I would prefer to have a little more study on it, because I didn’t study it from that particular angle. 30

Mr. Robertson: What did you study it from? A. That the top strike out line striking out “British Columbia Breweries (1918) Limited” superimposes part of the word “Director.”

Q. Six letters in the word “Director?” A. Yes.

Q. That is all you were called here for? A. Yes.

Mr. Hossie: Q. You heard Mr. MacLean’s evidence with regard to the front page of the document. Did you look at that? A. I didn’t. I made no examination of it.

Q. Did you examine Exhibit 12? A. Only insofar as the handwriting is concerned. 40

Q. There is no superimposition over the word director in this case? A. No.

Q. All right, thank you. You will cover the same point tomorrow after making your examination tonight? A. Yes.

Mr. Robertson: Then I will examine him after he is finished.

The Court: He wants to look at 12 tonight. I think we had better start at ten o'clock.

(COURT THEREUPON ADJOURNED UNTIL 10:00 A.M., JUNE 2nd, 1932).

Vancouver, B.C.,
June 2, 1932, 10.00 a.m.

(COURT RESUMED PURSUANT TO ADJOURNMENT)

HENRY M. MACLEAN, recalled, testified further as follows:

DIRECT EXAMINATION BY MR. HOSSIE (continued):

10 Q. Did you make the examination you were requested to make yesterday? A. I did.

Q. And as regards the two lines of strike-out in each of the documents, what did you find? A. In document Exhibit No. 12, the first question is each strike-out a continuous line. My answer is each line is continuous; each line was written—

Q. By continuous you mean joined together or all made in one stroke? A. Written right through from the left-hand side to the right.

20 Q. One stroke? A. One stroke. The answer to the second question, which one was written last—I am calling the lower line, which may also be called the heavy line, I am calling it No. 2; and the upper line which may be called the lighter line, I am calling No. 1. The lower line, No. 2, superimposes No. 1.

Q. Which was written last then? A. No. 2 was written last. I discovered clearly six points of contact, that is, six points coincident, and out of the six points five were very clear that No. 2 was superimposed on No. 1. The other one was doubtful. Exhibit No. 13, the first question, is each strike-out continuous. The answer to that is that in Exhibit No. 13 the top strike-out, No. 1,
30 is continuous from the "t" of "British."

Q. In the first word? A. Well, from the "t" of that word to the end. I am expressing no opinion from "t" to the left because there is an inter-reading of lines there that I could not decipher.

Q. That is on the "Bri" you are not sure? A. Yes.

Q. But from "t" to the end of the line— A. No. 1 is continuous through.

40 Q. You mean the same in regard to continuous as you have mentioned in the other? A. Yes. The bottom strike-out, No. 2, is continuous from the same point to a point on the left to what I think is the "B" in "British."

Q. "British" or "Breweries?" A. The "B" of the "Breweries." Now, on that particular point, this lower strike-out line thins off, and then just to the left of that "B" in "British"—

RECORD

*In the Supreme
Court of British
Columbia*

Defendant's
Case

H. M.

MacLean

Recalled

Direct Exam.

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RECORD

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Court of British
Columbia*

Defendant's
Case

H. M.
MacLean
Recalled

Direct Exam.
June 2nd, 1932
(Contd.)

Q. No, "B" in "Breweries?" A. "B" in "Breweries"—it becomes very heavy and continuous from there through. Now I cannot say definitely whether the pen was raised at the junction of that very thin line and that very heavy down stroke. There is nothing I could say on that, but think it might; and then it is heavy from there to the end.

Q. Which of these lines was made first, in your opinion?
A. In Exhibit 13 the No. 2 line was written last. That is, the No. 2 line superimposes the No. 1 line.

Q. How many points of contact? A. I find 14 points of 10
contact, of coincidence. And out of those 14, nine were very clear that No. 2 superimposed or was on top of No. 1, and the other four were not sufficiently clear for me to state definitely.

Q. And which of those lines was superimposed on "Director?" A. No. 1, the top line.

Q. How did you determine the superimposition? What is the physical evidence which leads you to say? A. By the evidence of the ink lying on top of the ink of the other line, or in some cases the pen tracks being on top of the pen tracks or obliterating the pen tracks of the under line. 20

Q. How did you determine upon whether the line No. 1 superimposes the word "Director?" A. It is largely there a matter of pen tracks of the top line and obliterations of the pen track of the under line.

Mr. Hossie: Thank you.

Mr. Farris: No questions.

Mr. Hossie: Q. One moment before you leave. Have you those photographs that you have just been referring to now? A. Yes, I have.

Q. You have an enlarged photograph of the signatures of 30
each document? A. Yes, I have a small photograph of No. 12, and I have an enlargement of the body.

Q. Enlargement of the body? A. Yes.

Q. I think it is important to mention—these were made by yourself? A. Were made by myself, and made under my supervision and direction.

(PHOTOGRAPHS MARKED EXHIBIT No. 33).

(Witness aside).

H. Good-
murphy
Recalled
Direct Exam.

HERBERT GOODMURPHY, recalled, testified further as follows: 40

DIRECT EXAMINATION BY MR. HOSSIE (continued):

Q. You are still under oath. Mr. Goodmurphy, you have made examinations of these documents again last night in regard to the lines of strike-out? A. I did.

- Q. What conclusion did you come to as regards the significance of the writing there, and the continuance of the line? A. Using the same expression as Mr. MacLean in connection with the No. 1, that light line No. 1, that strike-out, line, I find this line runs across the words "British Columbia Breweries (1918) Limited" in the strike-out.
- Q. Are they broken or continuous? A. In document No. 13 I find one break.
- Q. In which line? A. That is in No. 1 line.
- 10 Q. Well, apart from that? A. Continuous.
- Q. The two lines on document 12, and No. 1 line on document 13, are continuous? A. The two lines on No. 12 and the one line on No. 13, yes, continuous.
- Q. And which was written first? A. No. 2.
- Q. No. 2 was written first? A. No, No. 1 was written first, your honour.
- Q. And No. 2? A. No. 2 superimposes on No. 1.
- Q. How did you determine that? A. By the contact points of the two lines.
- 20 Q. How many contact points did you find? A. Mr. MacLean and I compared notes after examining them, and we came to the conclusion the same number.
- Q. Did you make your investigation jointly or separately? A. Separately, and compared notes later.
- Q. Had you arrived at your conclusion before you compared notes with Mr. MacLean? A. I had.
- Mr. Farris: No questions.
- (Witness aside).
- Mr. Macdonald: That is the defence, my lord.
- 30 The Court: Any rebuttal?
- Mr. Farris: No.
- Argument by Messrs. Macdonald and Hossie; also Messrs. Robertson and Farris, for balance of day and June 6th and 7th, 1932 with appropriate adjournments.

RECORD
 In the Supreme
 Court of British
 Columbia
 Defendant's
 Case
 H. Good-
 murphy
 Recalled
 Direct Exam.
 June 2nd, 1932
 (Contd.)

RECORD

*In the Supreme
Court of British
Columbia*

Remarks of
Court in course
of Argument
relative to
Plaintiff's
witness Tobin

REMARKS OF COURT

IN THE COURSE OF THE ARGUMENT RELATIVE TO
PLAINTIFF'S WITNESS TOBIN

Mr. Hossie: My, lord, let me say in the beginning a few words in regard to the point of the alteration of this document. In the first place, that alteration was only brought to the attention of the present directors of the company on the 30th April, as appears by the examination for discovery. The questions are in Mr. Hewer's discovery, at Question 15. After the document was produced and shown him, he was asked by Mr. Robertson: 10

"Q. Now, when did you first see Exhibit 3? A. On Saturday.

"Q. I beg your pardon? A. Saturday.

"Mr. Macdonald: Q. You mean last Saturday? A. Yes.

"Mr. Robertson: Q. And when did you first see a copy of it? A. About four months ago.

"Q. Before you entered into the agreement of the 15th September, 1931, to purchase the shares of the defendant company? A. I beg your pardon? 20

"Q. Was it before you entered into the agreement of the 15th September, 1931? A. I didn't see this agreement.

"Q. But you saw a copy of it? A. I saw what was supposed to be a copy of it, yes.

"Q. Well, look at this Exhibit 3 and tell me if there is any difference between it and the copy you saw? A. Yes, there is a difference.

"Q. Well, what is it? Tell me what it is. A. Well, crossing this out.

"Q. This crossing out here—what is crossed out on the second page? It looks like British Columbia Breweries Limited. A. Yes." 30

Now, on April 30th, a month before the trial, the matter of the alteration in the document was first brought to the attention of Mr. Hewer, and the evidence which he had in his possession was that of Mr. Jackson and the evidence of the expert who had been called here as to the relevant significance of the striking out of the name of the old company and the signature and the impression of the seal by the defendant. Therefore, Mr. Hewer and the other officers of the company, very fairly appreciating the effect of that, 40

brought the matter forward, and I submit, on the evidence which has been placed before your lordship, that the conclusion should be reached that the name "British Columbia Breweries (1918) Limited" was stricken out after the seal of the defendant company had been impressed to the document.

The Court: Do you apply that to Exhibit 12, too?

Mr. Hossie: I apply that to both the documents, because we are told, both by Mr. Jackson and Mr. Tobin, that they were both executed by the parties at the same time. Mr. Jackson says that.

10 The Court: Mr. Jackson said he was not interested and was not paying any attention.

Mr. Hossie: He said there was no correction on it when he signed it, and the experts both have said that the line which strikes out "British Columbia Breweries (1918) Limited" runs through the word "director" which Jackson wrote. And therefore, if this was Jackson's signature on there, the seal was impressed when the document stood in the name of British Columbia Breweries (1918) Limited.

The Court: You do not suggest that that happened with
20 regard to the front page, too?

Mr. Hossie: This is my theory of the whole matter, that the document was prepared for execution by British Columbia Breweries (1918) Limited, and given to the Japanese to go and get signed and get the seal on it, which he did. He then took it back to get the money, and the reason for changing the name of the company was apparent then to the plaintiff, and the document was then changed, with no thought, of course, of any fraud or anything of that sort. It was immaterial, they assumed; so far as the Japanese was concerned and so far as they were concerned, which
30 of the two companies they were dealing with. Therefore, they erased the name of the 1918 company and put in Vancouver Breweries Limited, for the convenient reason that the Vancouver Breweries Limited had a licence, and the 1918 company did not have one.

The Court: Your suggestion is that after Mr. Tobin got this document back in his hands, executed by them, he then changed it deliberately, which can only mean you are asking me to hold him guilty of forgery?

Mr. Hossie: No. I say the Japanese may have been there.

40 The Court: It would still be forgery. The document having already been executed in the only way it could be executed, under the seal of the Japanese company, are you suggesting that Mr. Tobin went deliberately and changed the front page, put his initials on there to deceive everyone who would afterwards look at it?

RECORD
In the Supreme
Court of British
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Remarks of
Court in course
of Argument
relative to
Plaintiff's
witness Tobin
(Contd.)

RECORD

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Remarks of
Court in course
of Argument
relative to
Plaintiff's
witness Tobin
(Contd.)

Mr. Hossie: I do not suggest there was any intent.

The Court: I do not care whether there was any or not. He put his initials on the front page to make it appear that is the way that document had been when it was executed? Well, I am not going to make any such finding. It would be a very wicked thing, and it would be forgery, and it would be done with intent to deceive everybody. When he placed his initial on the front page, he said, when this document was executed, it read as it now reads.

Mr. Hossie: Executed by whom?

The Court: By everybody who executed the exhibit. And 10
I am going to hold he is a forger and a crook? I will not do it, because I have known him too long.

Mr. Hossie: Will your lordship bear in mind the evidence?

The Court: Whatever you may say about No. 13—I can understand how they would be misled there, but I do not think it is any necessary part of the case that No. 13 should be in at all. But this Exhibit 12, with your seal on it, executed by two of your officers, that document, I find, was in its present form when executed. I have not got the slightest doubt about it.

Mr. Hossie: Well, your lordship will probably find some 20
explanation for the letter written by Mr. Tobin on December 6th, which was written to someone sending him the executed copy of the agreement which he was to get, asking him to send back the copy which you have, so that we may have it completed in the same manner.

The Court: Those are other copies altogether. They had nothing to do with these two, according to Mr. Tobin's recollection.

Mr. Hossie: But apparently there was something, the executed copy was sent out to him. If the executed copy was sent out to the Japanese, he did not take away the copy, and therefore it 30
was not executed in the Japanese' presence. Now, Marland was not there when the Japanese got the money. Marland did not sign that until later. The document was not executed and completed by the plaintiff until the following day, December 6th, and then a copy of it was sent out to the Japanese on December 6th, a day later. I submit that Colonel Tobin's recollection is at fault.

The Court: I can understand his recollection being at fault. We all forget things. But I cannot find him putting his initials opposite that change on the front page in order to mislead anyone who read it afterwards, and I would just as lief not discuss it 40
further, because it annoys me exceedingly to think that such a suggestion would be made.

Mr. Hossie : Very well ; I will not discuss it further.

The Court : I find, without any hesitation, that Exhibit 12 as it now stands so stood when it was executed by the parties, and that those seals were affixed and those signatures were attached. You can discuss it as long as you like, but that is my finding.

Mr. Hossie : Does your lordship make a similar finding as to 13 ?

The Court : 13—I do not think I am required to make a finding. It does not seem to me it makes any difference.

10 Mr. Hossie : Then I make the point formally, that if the document had been altered, that if your lordship's finding had been the reverse, the agreement would not be binding upon the defendant company in any way ?

The Court : What is that again ?

Mr. Hossie : That if your lordship's finding were the reverse, that the agreement had been altered after the seal of the defendant company was affixed to it, the agreement would not be binding upon the defendant company ?

The Court : Oh, well, the other court, of course, will decide 20 that if they do reverse it.

RECORD

*In the Supreme
Court of British
Columbia*

Remarks of
Court in course
of Argument
relative to
Plaintiff's
witness Tobin
(Contd.)

IN THE SUPREME COURT OF BRITISH COLUMBIA
(Before the Honourable Mr. Justice D. A. McDonald)

RECORD

*In the Supreme
Court of British
Columbia*

437/32.

Vancouver, B.C.

June 7th, 1932.

BETWEEN:

VANCOUVER BREWERIES LIMITED,

Plaintiff.

No. 7
Oral Reasons
for Judgment
D. A.
McDonald, J.
June 7, 1932

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,

Defendant.

10

ORAL REASONS FOR JUDGMENT

J. W. deB. FARRIS, ESQ., K.C.,

H. B. ROBERTSON, ESQ., K.C.,

Counsel for the Plaintiff.

D. N. HOSSIE, ESQ., and

R. M. MACDONALD, ESQ.,

Counsel for the Defendant.

No. 7

20 The Court: At the conclusion of the very painstaking and extended arguments which I have heard in this case, I find myself in what might be considered a rather peculiar position. I conceive it to be the duty of the trial judge, and I have been so advised by barristers of long standing, to try to elicit the facts and to adjudicate as promptly as he can, according to his best ability, upon the rights of the parties.

30 I have already expressed my views in regard to the execution of Exhibit 12; I need not say anything more about that. It might well be considered that I ought to reserve judgment and analyze and review the various cases which have been cited, and if I thought that I could assist anyone by doing so, I would not hesitate to do it, no matter how much time was involved, but I do not so think. The principles involved in this case have been laid down very often, and the cases have been reviewed from time to time, and I do not think that anything I could do in that regard would assist either party.

40 I have observed that the arguments of counsel have been taken by the Court Reporter, and those arguments will be available for use in a higher court. I have followed them with the very closest attention and care. I have tried to keep my mind concentrated

RECORD
*In the Supreme
Court of British
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No. 7
Oral Reasons
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D. A.
McDonald, J.
June 7, 1932
(Contd.)

on the case as closely as I possibly could throughout the argument. I have reached this conclusion: There are no merits in this defence. The present holders of the shares of the Defendant Company have no equity in their favour. With their eyes wide open, and with a clear warning of the rocks ahead, they chose to launch their ship upon a wide and stormy sea of litigation. With full knowledge of what they were doing, they bought a lawsuit. Before purchasing and pending and during the trial they have, with great ingenuity, and with a good deal of hair splitting, sought every possible excuse to escape from the responsibilities and obligations of a contract which they deliberately and solemnly entered into, at least which their predecessors in title entered into, and now, though they appear very solicitous about the public weal, they are really thinking, not of the public at all, but of the money which they can make if they succeed in getting the Courts to hold that this contract, in existence when they bought in, is a contract which cannot be enforced against them. In my opinion, no question of public policy arises, certainly not so far as it affords a defence to this action. To put it in a nutshell, I may say this; so far as I am concerned, I am not only impressed by the arguments which have been presented by counsel for the Plaintiff, I might almost say I have been overwhelmed by them; at any rate, I adopt them at least to this extent, that I am satisfied that they meet successfully every defence which has been raised. I think the arguments presented by Plaintiff's counsel are unanswered and unanswerable.

There will be judgment for the Plaintiff with costs.

No. 437/32.

RECORD

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

*In the Supreme
Court of British
Columbia*

VANCOUVER BREWERIES LIMITED, Plaintiff,

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,

No. 8

Judgment

June 7, 1932

Defendant.

BEFORE THE HONOUR- } Tuesday, the 7th day of June,
 ABLE MR. JUSTICE } A.D. 1932.
 10 D. A. McDONALD.

No. 8

UPON this action coming on for trial at the City of Van-
 couver on the 1st day of June, 1932, and again on the 2nd, 6th and
 7th days of June, 1932, before the Honourable Mr. Justice D. A.
 McDonald, in the presence of Mr. J. W. deB. Farris, K.C., and
 Mr. H. B. Robertson, K.C., of Counsel for the Plaintiff, and Mr.
 R. M. Macdonald and Mr. D. N. Hossie, of Counsel for the defend-
 ant, and upon hearing the evidence adduced on behalf of the plain-
 tiff and defendant and upon reading the pleadings herein and the
 20 exhibits filed on the trial of the said action and upon hearing what
 was alleged by Counsel aforesaid;

THIS COURT DOTH DECLARE that the Agreement dated
 the 5th day of December, 1927, made between the plaintiff and
 the defendant, mentioned in the pleadings herein, is a valid and
 subsisting agreement and enforceable by the plaintiff against the
 defendant and that the defendant is liable to perform and observe
 all the covenants on its part therein contained;

AND THIS COURT DOTH ORDER AND ADJUDGE that
 the defendant be and it is hereby restrained from engaging in or
 30 carrying on the business of manufacturing, brewing, selling or
 disposing of beer, ale, porter or lager beer, for and during the
 remainder of the period of fifteen years from the 5th day of
 December, 1927.

AND THIS COURT DOTH ALSO ORDER AND AD-
 JUDGE that the plaintiff do recover against the defendant its
 costs of this action, (including the costs of the two interlocutory
 applications made on the 7th of April, 1932, for leave to examine
 a past officer of the plaintiff and defendant respectively) to be
 taxed under Column 4 of Appendix N of the B.C. Supreme Court
 40 Rules, 1925, and paid to the plaintiff by the defendant forthwith
 after taxation thereof.

Checked "S. V. L."

Approved:

"R. M. Macdonld"

SEAL

"J. F. M."

D. R.

"D. A. M.," J.

BY THE COURT:

"J. F. MATHER,"

DISTRICT REGISTRAR.

Entered June 21, 1932.

Order Book Vol. 29, Fol. 17

Per "A. L. R."

RECORD

IN THE SUPREME COURT OF BRITISH COLUMBIA

*In the Supreme
Court of British
Columbia*

No. V. 437/1932

Filed Vancouver Registry
June 29, 1932.No. 9
Notice of
Appeal to
Court of
Appeal
June 29, 1932B.C.L.S.
10c.

Between:

VANCOUVER BREWERIES LIMITED

Plaintiff,

—and—

10

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED

Defendant.

No. 9

NOTICE OF APPEAL

TAKE NOTICE that the defendant hereby appeals from the whole of the judgment of the Honourable Mr. Justice D. A. McDonald delivered at the trial of this action on the 7th day of June, A. D. 1932 and the formal judgment entered on the 21st day of June, A. D. 1932 whereby it was declared as follows: 20

“This Court doth declare that the agreement dated the 5th day of December 1927, made between the plaintiff and the defendant, mentioned in the pleadings herein, is a valid and subsisting agreement and enforceable by the plaintiff against the defendant and that the defendant is liable to perform and observe all the covenants on its part therein contained” and whereby the defendant was enjoined as follows: “And this Court doth order and adjudge that the defendant be and it is hereby restrained from engaging in or carrying on the business of manufacturing, brewing, selling or disposing of beer, ale, porter or lager beer, for and during 30 the remainder of the period of fifteen years from the 5th day of December 1927.”

AND TAKE NOTICE that motion will be made by way of such appeal unto the Court of Appeal at its next sittings to be holden at the City of Vancouver, British Columbia, on Tuesday, the 4th day of October, A. D. 1932 at the hour of eleven o'clock in the forenoon or so soon thereafter as counsel can be heard for a judgment or order reversing the judgment appealed from and dismissing the plaintiff's action with costs:

AND TAKE NOTICE that the said appeal will be based 40 upon the following, amongst other, grounds:

1. The judgment is contrary to law.
2. The judgment is against the evidence and the weight of evidence.
3. The learned Trial Judge should have found upon the evidence that there was no agreement between the parties as alleged or at all.
4. The learned Trial Judge improperly admitted evidence which was not admissible.
- 10 5. The learned Trial Judge should have found upon the evidence that the defendant did not enter into the agreement sued upon by the plaintiff.
6. The learned Trial Judge should have found upon the evidence that the affixing of the seal to the said agreement was not authorized.
7. The learned Trial Judge should have found upon the evidence that the alleged agreement had been materially altered after the seal of the defendant had been affixed thereto.
8. Alternatively, the learned Trial Judge should have found that the said agreement was not binding upon the defendant.
- 20 9. Alternatively, the learned Trial Judge should have found that the said agreement was unenforceable and void for uncertainty.
10. Alternatively, the learned Trial Judge should have found that the alleged agreement was meaningless and therefore unenforceable in that the defendant had no goodwill capable of being sold or purchased as in the said agreement set forth.
11. Alternatively, the learned Trial Judge should have held in law that the said agreement was unenforceable by reason of its being ultra vires of the defendant.
- 30 12. Alternatively, the learned Trial Judge should have held in law that the said agreement was unenforceable by reason of its being an agreement in restraint of trade.
13. Alternatively, the learned Trial Judge should have held in law that the said agreement was unenforceable by reason of its constituting an unreasonable restraint of trade on the defendant.
14. Alternatively, the learned Trial Judge should have held in law that the said agreement was unenforceable by reason of its being contrary to public policy.
- 40 15. Alternatively, the learned Trial Judge should have held in law that the said agreement was illegal under the provisions of the "Criminal Code."
16. Alternatively, the learned Trial Judge should have held in law that the said agreement was illegal under the provisions of the "Combines Investigation Act."

RECORD

*In the Supreme
Court of British
Columbia*No. 9
Notice of
Appeal to
Court of
Appeal
June 29, 1932
(Contd.)

RECORD

*In the Supreme
Court of British
Columbia*

No. 9
Notice of
Appeal to
Court of
Appeal
June 29, 1932
(Contd.)

17. Alternatively, the learned Trial Judge should have held in law that the said agreement was unenforceable in that a license granted under the "Excise Act" cannot be assigned and that the plaintiff could acquire no interest therein.

18. In the further alternative, the learned Trial Judge should have held that the agreement if enforceable, which is not admitted but denied, had no application to any licenses issued to the defendant subsequent to the one in force at the date of this said agreement.

19. In the further alternative, the learned Trial Judge 10
should have held that the agreement if enforceable, which is not admitted but denied, had no application to any license issued to the defendant for premises other than those occupied by it under license at the date of the said agreement.

20. And upon such further or other grounds as counsel may advise.

DATED at Vancouver, British Columbia, this 29th day of June, A. D. 1932.

"G. F. McMASTER,"
Solicitor for the defendant. 20

To the above-named plaintiff
And to Messrs. Pattullo & Tobin, its solicitors.

The place of business and address for service of Glenholme Ferguson McMaster, solicitor for the defendant, is at the offices of Messrs. Lennie & McMaster, 901 Vancouver Block, Vancouver, B.C.

COURT OF APPEAL

No. 10

MEMORANDUM HANDED IN BY THE HONOURABLE
MR. JUSTICE MARTIN ON THE 10th JANUARY, 1933

“Vancouver Breweries vs. Vancouver Malt—I would dismiss.”

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COURT OF APPEAL

No. 11

10 VANCOUVER BREWERIES LTD. } JUDGMENT OF
 } THE HONOURABLE
 } MR. JUSTICE
10 vs. } McPHILLIPS
VANCOUVER MALT AND SAKE }
BREWING COMPANY LTD. }

No. 11
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Mar. 7, 1933

At the outset I may say that, in my opinion, it is impossible, upon my weighing of the facts of the case, to hold that the plea of *non est factum* is proved, that is, that any material or any alteration took place after the execution of the contract and I am in agreement with the learned trial judge as to this point. Then I think it must be accepted that the contract has been regularly executed as the facts would seem to support it being so held within
20 the rule in *Royal British Bank v. Turquand* (1856) 6 E. & B. 327 and the presumption of regularity can be applied when one considers the facts of the present case, that is, that there was no requirement to inquire into the regularity of the internal proceedings and what Lord Hatherley called “the indoor management” and here we have the execution of the contract by proper officers. See also *Mahony v. East Holyford Mining Co.* L.R. 7 H.L. 869; *Bargate v. Shortridge* 5 H.L.C. 318; *In re Land Credit Co. of Ireland* L.R. 4 Ch. App. 469; *In re County Life Assurance Co.* L.R. 5 Ch. App. 288. What Atkin, L.J. (now Lord Atkin) said
30 in *Kreditbank Cassel G. M.B. H. v. Schenkers* (1927) 1 K.B. 826 at 844 gave me some anxious thought—

“If you are dealing with a director in a matter in which
“normally a director would have power to act for the com-
“pany you are not obliged to inquire whether or not the form-
“alities required by the Articles have been complied with
“before he exercises that power.”

Here it well might be said to execute a contract, such as here under consideration, practically parting with the major part of the corporate powers of the Appellant company that the directors

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were perhaps not acting “in a matter in which normally”—
 directors—“would have power to act for the company” and it
 might well be held that failure on the part of the Respondent
 company to establish that a directors’ meeting was regularly held
 and that all the requisite steps were taken which would admit of
 the execution of the contract—was a fatal objection to the validity
 of the contract—however perhaps this objection is not a matter
 of necessity as upon different grounds I have arrived at the firm
 opinion that the contract is unenforceable. In my opinion it was
 an illegal transaction, that is, the contract, as executed, is in its
 nature illegal. Here there is not really a sale of the goodwill of
 a business. That contention was not insisted upon at this Bar as
 it was not the fact but that which was insisted upon was that the
 Appellant had for the space of fifteen years deprived itself of
 brewing beer. This class of contract it seems to me is one that
 falls within what Younger, L.J. said in *British Concrete Co. v.*
Schelff (1921) 2 Ch. 563 at p. 576 “a covenant in gross against
 trading however great the consideration is void.” Also see Far-
 well, J. in *Townsend vs. Jarman* (1900) 2 Ch. 698 at pp. 702, 703.
 Here there was no legal right upon the part of the Respondent
 company to get any such unfair and oppressive restraint as has
 been upheld in the Court below—it was all aimed at bringing
 about a monopoly and was in restraint of trade—as a matter of
 fact the Respondent company has no less than two brewing
 licenses in a restricted Excise area, namely, Vancouver City and
 the immediate neighbourhood, and if the contract is a valid one it
 means that in an area which has almost one-half of the population
 of the Province the Respondent company is the sole possessor of
 the field as the Government of Canada has intimated that the
 licenses for brewing beer shall not exceed three. The Respondent
 company now holds and controls two licenses, if this contract is
 to be held valid then it occupies the whole field and is in complete
 command of the field—it is not possible for breweries at a distance
 to compete—as the great volume of business is the sale of beer in
 bulk and the brewery on the ground has an impregnable position.
 This punctuates the position of things and demonstrates that the
 contract is an unreasonable one in the restraint of trade and that
 the contract is void on the grounds of public policy. I would
 refer to the quotation made by Farwell, J. in *Townsend vs. Jar-*
man, supra:—

“I cannot state a better test of reasonableness than that
 “given by Tindal C.J. in *Horner v. Graves* 7 Bing. 735, 743;
 “33 R.R. 635. He says ‘But the greater question is, whether
 “ ‘this is a reasonable restraint of trade. And we do not
 “ ‘see how a better test can be applied to the question whether

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“ ‘reasonable or not, than by considering whether the restraint
 “ ‘is such only as to afford a fair protection to the interests
 “ ‘of the party in favour of whom it is given, and not so large
 “ ‘as to interfere with the interests of the public. Whatever
 “ ‘restraint is larger than the necessary protection of the
 “ ‘party, can be of no benefit to either, it can only be oppres-
 “ ‘sive; and if oppressive, it is, in the eye of the law, un-
 “ ‘reasonable. Whatever is injurious to the interests of the
 “ ‘public is void, on the grounds of public policy.’ ”

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10 (*Horner vs. Graves* 7 Bing. 735, 743; 33 R.R. 635).

There is the further question as to whether there is any power to assign the brewer's license or obtain any control over the license—which issues anew each year with new bonds—in this connection I would draw attention to the case of *Paul L. Turgeon v. Francois-Xavier St. Charles* (1913) 48 S.C.R. Can. 473. Idington, J., at p. 477, said, speaking of a licence under the “Quebec License Act”—

“Not even the court can have any power or authority
 “directing its curator or any one else to meddle with such
 20 “a transfer unless given by said Act the power to do so.”

The application of what Anglin, J. (afterwards Chief Justice of Canada) said in the last mentioned case, at pp. 485, 486, is, it seems to me, complete in this case:—

“A study of the provisions of the ‘Quebec License Law.’
 “however—particularly article 923—has satisfied me that any
 “property which may exist in a licence in that province is
 “and must remain vested in the holder of the licence, upon
 “whom it confers a personal right or privilege so long as he
 “holds it and is the occupant of the premises and owner of the
 30 “business in respect of which it issues. Having regard to
 “this essential characteristic of a licence it is inconsistent
 “with the letter and the spirit of the ‘Quebec Licence Law’
 “that there should be vested in one person the property in a
 “licence held by another under a right intended to be more
 “than merely temporary.”

It was held by Darling, J. (now Lord Darling—in *Sykes v. Bridges* (1919) T.L.R. Vol XXXV) that a contract for the sale of a permit issued under the Defence of the Realm Regulations by the Commissioners of Customs and Excise and authorizing a
 40 particular person to take a certain quantity of wine out of bond is illegal as being contrary to public policy. Darling, J. said at pp. 464-465—

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“The practice of trafficking in these permits had been
 “elaborated into a system, and in the circumstances it was
 “clearly contrary to public policy. ‘Public Policy’ was a
 “term which connoted the attempt of the legislature to give
 “the greatest happiness to the greatest number of the mem-
 “bers of the State; and it was violated by privileged persons
 “wrongly obtaining profit for themselves to the detriment of
 “the social community. He therefore decided that the agree-
 “ment in question was illegal and void, and he gave judgment,
 “with costs, for the Defendants.” 10

In *Trevalion & Co. v. Blanche & Co.* (1919) Session Cases
 617 (Scotch) the sale of a liquor permit was declared to be illegal
 and unenforceable: Lord Dundas, at p. 624, said:—

“It seems to me obvious that, if such permits could be
 “made the subject of traffic, the whole scheme would be futile;
 “the permits might be bought up by a relatively small num-
 “ber of persons, and all idea of fair and equal distribution
 “would be at an end.”

Now the question of the reasonableness is a question for
 the court. The surrounding circumstances may be looked at, 20
 such as the character of the business and the requirements of
 the business but it is a question of law. Contracts in restraint of
 trade are to be construed strictly. *Morris v. Ryle* (1910) 103
 L.T.R. 545; *Cattermoul v. Jared* (1909) 53 S.J. 244 and are *prima*
facie invalid and onus of proof on party supporting the contract
Morris v. Saxelby (1916) 1 A.C. 688, 700, 706; *Attwood v. Lamont*
 (1920) 3 K.B. 571, 587-8. It must now be said that the test of a
 contract in restraint of trade, as to its validity, is what was said
 by Lord Macnaghten in *Nordenfelt v. Maxim Nordenfelt Co.*
 (1894) A.C. 535:— 30

“It is a sufficient justification and indeed it is the only
 “justification if the restriction is reasonable—reasonable that
 “is in reference to the interests of the parties concerned and
 “reasonable in reference to the interests of the public, so
 “framed and so guarded as to afford adequate protection to
 “the party in whose favor it is imposed while at the same time
 “it is in no way injurious to the public.”

Here upon the facts and in the light of the circumstances
 the contract is one manifestly “injurious to the public” *North*
Western Salt Co. v. Electrolytic Alkali Co. (1914) A.C. 461, 471. 40

I would refer to what Lord Shaw said upon the principle
 that has to be borne in mind in considering the case—in *Morris v.*
Saxelby (1916) 1 A.C. 688 and there it was held that the covenant

was wider than was required for the protection of the Plaintiff company and was not enforceable and that learned lord said in his speech:—

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10 “My lords, in my opinion *Mitchell v. Reynolds* 1 P. Wms. 181, 190 still remains, among all the decisions, the most outstanding and helpful authority. Lord Macclesfield states the principle in a form which seems to fit and rule many very modern conditions, and many developments of commerce and of contract: “The true reasons of the distinction upon which the judgments in these cases of volutary restraints are founded, are, 1st, the mischief which may arise from them, 1st to the party, by the loss of his livelihood, and the subsistence of his family; 2nd, to the public by depriving it of any useful member.

20 “Another reason is, the great abuses these voluntary restraints are liable to; as for instance, from corporations, who are perpetually labouring for exclusive advantage in trade, and to reduce it into as few hands as possible; as likewise from masters, who are apt to give their apprentices much vexation on this account, and to use many indirect practices to procure such bonds from them, lest they should prejudice them in their custom, when they come to set up for themselves.

“These principles, my lords are far-reaching and enlightened. In my opinion they may have been now and again in the course of these two centuries obscured; they have never been lost.

30 “When they are applied in the present instance, the case is simplicity itself. It is admitted that on the objective side nothing has been done amiss. I do not see that there were any trade secrets; if there were any, they have not been given away. It is not suggested that they will be, and this is the case also with information about customers, &c.; in fact, the whole of that claim for injunction has been abandoned. As to what remains, namely, the claim against Mr. Saxelby setting up or assisting in a business which does the special engineering work in which he was trained, this is rested upon the likelihood that his own abilities, skill, and knowledge would be of advantage to himself or others as competitors in manufacture and trade. So rested, it is an audacious claim, whether regarded, from the point of view
40 “of the parties or of the public.

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“From the point of view of the Appellants it is plainly
 “put, a claim against competition per se, a claim to cripple
 “rivals in trade by the denial to them of a supply of all
 “skilled labour which has had the advantage of being per-
 “formed under the Appellants, and accordingly pro tanto to
 “compel them to seek for labour in a foreign market.

“From the point of view of the Respondent it is, justly
 “interpreted, a claim to put him in such a bondage in regard
 “to his own labour that, if he seeks to find employment or
 “advancement elsewhere, he must, for seven years of his life, 10
 “become an exile.

“From the point of view of the public one would have
 “thought that it was at least not inconsistent with the public
 “interest to ‘let knowledge grow from more to more.’ And
 “under modern conditions, both of society and of trade, it
 “would appear to be in accord with the public interest to open
 “and not to shut the markets of these islands to the skilled
 “labour and the commercial and industrial abilities of its
 “inhabitants, to further and not to obstruct for these les
 “carrieres ouvertes. All such considerations are shut down 20
 “under an appeal to enforce this restraint, and I am humbly
 “of opinion that its enforcement cannot be compelled by law.”

Here we have the facts to be—only three brewers’ licenses in
 the Vancouver Excise District and all three—this contract main-
 tained—get into one hand. *The case of Weidman* in the Supreme
 Court of Canada (1912) 46 S.C.R. 1 where the contract was held
 not to be enforceable is peculiarly appropriate to the circum-
 stances surrounding the present case. There it was held to be
 a contract with the object, as the present case is, of restricting
 competition and establishing a monopoly, an agreement, unduly 30
 to prevent or lessen competition within the meaning of the
 Criminal Code of Canada. I would particularly refer to the
 judgment of Mr. Justice Duff at pp. 33, 34, 35, 36, 37. Upon full
 and careful consideration of all the facts of the making of the
 contract here sought to be enforced I am satisfied that the con-
 tract is one against public policy and one unduly in restraint of
 trade and is unenforceable. Further that it is a contract unduly
 to prevent or lessen competition within the meaning of Section
 498 of the Criminal Code (Revised Statutes of Canada—1927,
 Chap. 36) and is not enforceable between the parties. The action 40
 therefore, in my opinion, should stand dismissed—and the appeal
 allowed.

(Sgd.) “A. E. McPHILLIPS,”

Vancouver, B.C.,
 7th March, 1933.

J.A.

COURT OF APPEAL

No. 12

VANCOUVER BREWERIES LTD. } JUDGMENT OF
 vs. } THE HONOURABLE
 VANCOUVER MALT AND SAKE } MR. JUSTICE
 BREWING COMPANY LTD. } M. A. MACDONALD

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On December 5th, 1927, the following agreement was executed:—

10 WHEREAS the Vendor (Appellant Vancouver Malt & Sake Brewing Company Limited) is the holder of a brewers licence under the Excise Act and is engaged in the manufacture of Sake in the Province of British Columbia,

 AND WHEREAS the Purchaser (Respondent Vancouver Breweries Ltd.) is desirous of purchasing from the Vendor the good-will of the said brewers licence and any renewal or renewals thereof so far as the same relates to the manufacture and sale of beer, ale, porter or lager beer,

20 (1) NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the sum of \$15,000.00 now paid by the Purchaser to the Vendor (the receipt whereof is hereby acknowledged) the Vendor has bargained, sold, transferred and assigned unto the purchaser, and does hereby bargain, sell, transfer and assign to the said Purchaser all its right, title, interest, claim and demand in, to or out of the goodwill of the said brewers license or any renewal or renewals thereof, except insofar as the same relates

30 to the manufacture, sale and distribution of Sake,
 (2) AND the Vendor for itself, its successors and assigns covenants and agrees with the Purchaser that during a period of Fifteen (15) years from the date hereof it will not engage in nor carry on the business of manufacturing, brewing, selling or disposing of beer, ale, porter or lager beer, and will not brew, manufacture or sell any article or articles made in imitation thereof, other than Sake, either by itself or through its servants or agents or otherwise,

40 (3) AND the Vendor further covenants that if at any time it shall sell its license to brew or any renewal or renewals thereof any such sale shall be made subject to the foregoing conditions,

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- (4) AND the Vendor further covenants that at no time during the said period of Fifteen (15) years will it be concerned directly or indirectly either as principal, agent, manufacturer, servant, financier or otherwise in any brewing business other than that of Sake, and in event of any breach of the covenants herein contained will pay to the Purchaser the sum of \$15,000.00 to be recoverable upon every breach of this covenant as agreed, in liquidated damages.

For Appellant the agreement was signed by inserting the name of the Company with the addition "per K. Sanmiya and Frank Jackson," two of its directors. The corporate seal was affixed thereto. Under the licence referred to Appellant had the additional right to manufacture sake and wholly confined its activities to the production and sale of this product. 10

Five years later (the shares being acquired in the meantime—September 18th, 1931—by one Hewer) Appellant decided to brew beer, ale and porter in addition to sake and in breach of the agreement made preparations to do so. Respondent thereupon sued for an injunction and alternatively for a declaration that the Respondent is the assignee of Appellant's brewer's licence (except in respect to Sake) or that it is held by Appellant in trust for Respondent. The trial judge held that the agreement was enforceable and restrained Appellant from manufacturing beverages, other than sake for the remainder of the fifteen year period. No attempt was made to enforce penalties. From that judgment this appeal is launched. 20

Appellant's first submission is that Respondent did not execute the agreement based upon the fact that the name of another company, viz., "British Columbia Breweries (1918) Limited" was first inadvertently inserted in the document as the purchaser. An alteration was made later with pen and ink striking it out and substituting therefor the name of the Respondent. The allegation is that this alteration was made after execution by both parties. The finding of fact of the trial judge, viz., that the alteration was made before execution, should not be disturbed. It was urged that he disregarded the evidence of experts. Their evidence affords no assistance of any value on this point. Mr. Farris' suggestion is a reasonable one—and it does not impugn dishonesty to any one—viz., that the alteration was probably made by Jackson. Several copies of the agreement may have reached his hands with alterations made in all but one of them (the present Exhibit 13) and finding this oversight he repaired the omission. I examined the original Exhibit and, judging from the color of the 30 40

ink and the stress used in making the alteration it appears obvious—certainly it is the most reasonable assumption—that it was done with the hand and pen that inscribed the name of Jackson to the document. The fact that this view does not agree with the oral evidence is not material. Details would be readily forgotten during a five year interval. The suggestion that it was altered after execution, with a guilty mind or otherwise, should not, on a true appreciation of the facts and probabilities, be entertained for a moment. (*London Life Insurance Co. v. Lang Shirt Co.* (1929) S.C.R. 117 at 126).

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It was also submitted under the plea *non est factum* that the agreement was not executed by Appellant's two directors with lawful authority. Prior to execution, it is said no meeting of directors authorized its execution or the affixing of the seal. A third director (Wilson) too had no knowledge of its execution. He resided in San Francisco and gave to one Norman authority to act on his behalf and the agreement was executed without notice to Wilson or to Norman. Further it was urged that if there is a presumption that the agreement was validly executed it may be rebutted and this was done. If, however, so far as Respondent is concerned, the agreement was validly executed Wilson's complaint, if any, must be directed elsewhere. If Appellant's memorandum and articles gave two directors authority to sign on its behalf provided certain directions were followed the Respondent might assume that these formalities of a domestic character were duly observed. It is not a question of delegation of authority; or of ostensible authority. It is a valid exercise of a power conferred upon two directors or a power that might have been conferred upon them.

Article 77 provides that "the business of the (Appellant) Company shall be managed by directors." By article 104—

The management of the business of the Company shall be vested in the Directors who in addition to the powers and authorities by these presents or otherwise expressly conferred upon them may exercise all such powers and do all such acts and things as may be exercised or done by the Company and are not hereby or by statute expressly directed or required to be exercised or done by the Company in general meeting but subject nevertheless to the provisions of the statutes in that behalf.

As a specific power and without prejudice to general powers they might by article 105 (r)—

enter into all such negotiations and contracts and rescind and vary all such contracts and execute and do all such acts deeds

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and things in the matter and on behalf of the Company as they may consider expedient for or in relation to any of the matters aforesaid or otherwise for the purposes of the Company.

By Appellant's Memorandum of Association, one of its main objects was (3b) "to carry on the business of Brewers and Malsters" and by (3-s) it had power

To sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit, and in particular for shares, debentures, or other securities of any other company having objects altogether or in part similar to those of this Company. 10

To clothe directors with authority to affix the seal to any instrument Article 106 provides that:—

The Directors shall forthwith procure a common seal to be made for the Company and shall provide for the safe custody thereof. The seal shall not be affixed to any instrument except by the express authority of a resolution of the Board of Directors and in the presence of at least one Director and of the Secretary or such other person as the Directors may appoint for the purpose and that one Director and Secretary or other person as aforesaid shall sign every instrument to which the seal of the Company is so affixed in their presence. (Jackson was the Secretary). 20

It will be observed that a resolution was necessary. Only a search of the minutes however would reveal its existence, if passed.

The foregoing are general powers. But these general powers might be delegated. By Article 96—

The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed on it by the Directors. 30

And by Article 91 two directors may form a quorum. Without discussing it in detail it is apparent that any one reading these public documents would find that Appellant company had power to authorize these two directors to execute the agreement and to affix the seal. The method by which that power might be conferred relates solely to internal management.

In *D'Arcy v. Tamar Kit Hill Railway Company* (1867) L.R. 2 Exch. p. 158, it was held that a bond given under the seal of the Company, though it must be taken as valid *prima facie* yet this 40

presumption might be rebutted by proof that the necessary authority to affix the seal was not given. But as pointed out by Bacon V.C., in *Re Bonnelli's Telegraph Co.* (1871) L.R. 12 Eq. Cases 246 at 260:—

“the seal could not lawfully be affixed but by the direction of the three directors and it was proved beyond question that . . . only two directors had given any kind of authority for it.”

10 The decision too turned on the provisions of a statute defining the precise manner in which the directors might act. The statute provided that powers

“shall be exercised in accordance with and subject to the provisions of this and the special act;”

The act was not complied with in affixing the seal. The provisions of a statute must of course be observed as a condition precedent to acts done under it. (*Pacific Coal Mines Limited v. Arbutnot* (1917) 86 L.J.P.C. 172). It is then solely a question of the proper interpretation of the statute. We are concerned with a memorandum and articles and no where is it provided that 20 general powers given shall not be exercised except on the observance of certain formalities or preliminary resolutions. In *re Bonnelli, supra*, an agreement to sell the undertaking, while informal according to the indoor regulations of the Company, was held binding against them.

In *The Royal British Bank v. Turquand* (1856) 6 El. & Bl. Q.B. 327, this principle is stated by Jervis, C.J., at pages 330-31:—

30 “we may now take for granted that the dealings with these companies are not like dealings with other partnerships and that the parties dealing with them are bound to read the statute and the deed of settlement. But they are not bound to do more. And the party here on reading the deed of settlement would find, not a prohibition from borrowing, but a permission to do so on certain conditions. Finding that the authority might be made complete by a resolution we would have a right to infer the fact of a resolution authorizing that which on the face of the document appeared to be legitimately done.”

40 It was submitted that different principles apply as between normal acts (presumably ministerial acts) and matters of greater moment such as the execution of the agreement in question. But Directors can do anything that the Company can do—*Herrmann v. Canadian Nickel* (1929) 64 O.L.R. 190 at 197; and a limited number have equal authority if the right of delegation is given, and

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in the case at bar two constituted a quorum. Respondent was bound to read the memorandum and the articles and finding there, not a prohibition against execution and the affixing the seal by two directors, but a permission to do so on certain conditions it might assume that the conditions were complied with.

The decision in *Mahony v. Liquidator of East Holyford Mining Co.* (1875) L.R. 7 H. L., 869, was concerned with the right of bankers to protection in honouring directors' cheques signed in accordance with a formal notice sent to the bank without any inquiry as to whether or not the directors were appointed in compliance with the memorandum and articles. No directors in fact were ever appointed; certain individuals simply *de facto* acting as such. The letter to the bank (thus giving it notice) referred to a resolution that was never passed, *viz.*, that the bank should honor cheques signed by either two of three named directors. It was enough that by the articles authority could be conferred by resolution. Lord Chelmsford at pages 889 and 890 said:—

“We have a right to assume that the bankers, acting with
 “proper caution, before they commenced transactions with
 “the company, referred, as they were bound to do, to the
 “articles of association, to ascertain in what manner the ac- 20
 “count which had been opened was to be drawn upon. Beyond
 “the particulars of the objects of the company, and informa-
 “tion as to the mode in which the account was to be dealt
 “with, which alone the bank was concerned to know. I do
 “not consider that any more preliminary inquiries were
 “necessary. Upon referring to the articles of association
 “they would have found, by the 58th clause, that every sum
 “paid on behalf of the company amounting to £10 or upwards,
 “was to be paid by cheques to be signed and countersigned as 30
 “might from time to time be directed by the board.”

The observations of Lord Hatherley at pages 893 and 894 were referred to in *Pacific Coal Mines v. Arbuthnot, supra*, at page 176 as “the classical exposition of this principle for practitioners in company law.” He said:—

“ . . . Those who deal with joint stock companies are bound
 “to take notice of that which I may call the external position
 “of the company. Every joint stock company has its memo-
 “randum and articles of association; every joint stock com-
 “pany, or nearly every one, I imagine (unless it adopts the 40
 “form provided by the statute, and that comes to the same
 “thing) has its partnership deed under which it acts. Those
 “articles of association and that partnership deed are open to
 “all who are minded to have any dealings whatsoever with the

“company, and those who so deal with them must be affected
 “with notice of all that is contained in those two documents.

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10 “After that, the company entering upon its business and
 “dealing with persons external to it, is supposed on its part
 “to have all those powers and authorities which, by its articles
 “of association and by its deed, it appears to possess; and all
 “that the directors do with reference to what I may call the
 “indoor management of their own concern, is a thing known
 “to them and known to them only: subject to this observation,
 “that no person dealing with them has a right to suppose that
 “anything has been or can be done that is not permitted by
 “the articles of association or by the deed.”

No one would question the decision in *re County Life Assurance Company* (1870) L.R. 5 Chy. App. Cases 288, where on an appeal from a decision in the winding up of the company an insurance policy issued by *de facto* directors acting without authority (though authority might have been given) was held binding on the company. Yet the principles applicable are the same and they are necessary in the conduct of commercial affairs.
 20 Sir G. M. Giffard, L.J., at p. 293 said:—

“I take the law, as deduced from the authorities, to be
 “plainly this: In the first place, a stranger must be taken to
 “have read the General Act under which the Company is in-
 “corporated, and also to have read the articles of association;
 “but he is not to be taken to have read anything more, and if
 “he knows nothing to the contrary, he has a right to assume
 “as against the company that all matters of internal manage-
 “ment have been duly complied with.”

Passing resolutions is, of course, a matter of internal concern.

30 We were referred to *In Re Haycraft Gold Reduction and Mining Company* (1900) 2 C.D. 230. But cases of this sort where shareholders only are concerned are of no aid in deciding whether or not strangers may rely on the assumption that all necessary steps within the authority of the Board have been taken. The true principle applicable is found in such cases as *County of Gloucester Bank v. Rudry Merthyr Coal Colliery Company* (1895) 1 C.D. 629, where not a so-called normal or ministerial act in the course of business, but the execution of a mortgage, was held
 40 resolution a quorum of three was fixed, a meeting of directors at which two only were present authorized the Secretary to affix the company's seal to the mortgage. As stated by Lord Halsbury at p. 632:—

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 Court of Appeal
 No. 12
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 J.A.
 Jan. 27, 1933
 (Cont'd)

“ . . . An outside person, who had no other means of knowledge, was entitled to regard the company as having performed its functions in the making of this mortgage by *whatever means it could lawfully do so.*”

He too distinguishes the *D'Arcy* case, *supra*, because of the special acts in question. As Lindley L.J., pointed out at page 636:—

“he is not bound to go and look at the directors' minutes: he
 “he has no right to look at them except as a matter of bar-
 “gain.”

10

We were referred to *Ruben v. Great Fingall Consolidated* (1904) 2 K.B.D. 712, but it is of no assistance. It turned on the point as to whether or not the company as master was bound by the fraud of its servant, the secretary in forging the name of two directors to a certificate for his own private purposes. *Mahony v. East Holyford*, *supra*, was referred to at page 729 only to point out that its principles were never extended to a forgery. Such an instrument was simply null and void. So also in *Glasgow Lumber Co. v. Fettes* (1932) 1 W.W.R. 195, a decision of the Saskatchewan Court of Appeal the instrument executed by the two companies was signed by one director only whereas the articles required signature by more than one. In the case of one of the companies it might be signed by one director and the secretary. Here the limitation of authority was clearly stated in the articles. In the case at bar two directors either had authority to sign or could procure that authority. No power existed in the case just cited to confer authority by resolution on one director. This principle is repeated in *Biggerstaff v. Rowatt's Wharf Ltd.* (1896) 2 C.D. 93 at 102 by Lord Justice Lindley in these words:—

“It is said that the company are not bound by those
 “orders because Mr. Davy had no authority to give them.
 “Now, what is the law as to this point? What must persons
 “look to when they deal with directors? They must see
 “whether according to the constitution of the company the
 “directors *could have the powers* which they are purporting
 “to exercise. Here the articles enabled the directors to give
 “to the managing director all the powers of the directors
 “except as to drawing, accepting, or indorsing bills of ex-
 “change and promissory notes. The persons dealing with
 “him must look to the articles, and see that the managing
 “director *might have power* to do what he purports to do,
 “and that is enough for a person dealing with him *bona fide.*
 “It is settled by a long string of authorities that, where

40

“directors give a security which according to the articles
 “they might have power to give, the person taking it is en-
 “titled to assume that they had the power.”

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Perhaps the latest case is *British Thomson-Houston Co. Ltd.*
v. Federated European Bank (1932) 2 K.B. 176. In a note at
 page 184 it is correctly stated that

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 (Cont'd)

10 “ . . . if the articles of association of the company give the
 “officer authority to do the act; provided certain directions
 “are observed, and the officer purports to do the act the plain-
 “tiff is entitled to assume that the directions have been fol-
 “lowed.”

These principles have been followed in our own courts, *e.g.*,
Almur Fur Trading v. Bank of United States (1932) S.C.R. 150;
Herrmann v. Canadian Nickel (1929) 64 O.L.R. 190. Nor are
 they affected by such cases as *Houghton v. Nothard Lowe & Wills*
 (1927) 1 K.B. 246, where the unusual nature of the transaction
 put a stranger upon inquiry. One cannot, however, base con-
 20 clusions upon the judgment of the Court of Appeal. Its decision
 was affirmed in the House of Lords (1928) A.C. 1, but on other
 grounds. That being so the statement of Jessel M.R. in *Hack v.*
London Provident Building Society (1883) 23 C.D. 103 at 112,
 may be referred to, *viz.*,

“ . . . when the House of Lords affirms a decision on different
 “grounds from those of the court below, it is evidence, in fact
 “proof, to those who know the practice of the House of Lords
 “that they do not agree with those grounds.”

I have no doubt therefore that the agreement under con-
 sideration was validly executed with lawful authority by the two
 directors.

30 A further complaint is that the contract already set out in
 full is illegal, contrary to public policy, in restraint of trade and
 too wide in its scope for the reasonable protection of Respondent.
 It was first submitted by Respondent that it might be supported
 under clause (1) as a completed purchase and sale for adequate
 consideration. Confining attention for the present to this clause
 it may be noted that it is not a sale of Appellant's license to brew
 beer. The licence under the Excise Act, R.S. Can. (1927) Cap. 69
 is granted to Appellant as a personal temporary right enabling
 it to operate in designated premises. It is not assignable and
 40 therefore remains with Appellant. There is no prohibition
 against transfer but it is inconsistent with the whole scheme of
 the Act. It purports to sell, to a limited extent, the goodwill of a
 business in which a licence is essential. It has, I think, this effect

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—Appellant could not in future use the licence so dealt with to brew beer (only sake). When the agreement was executed Appellant had no facilities for brewing beer and never in fact manufactured it. The parties were concerned with possible future operations. Can good-will attach to a non-existent business or to the mere right to carry it on? It only arises when a trade is so conducted that it attracts customers; in other words a good business reputation is acquired. Good-will is the “attractive force which brings in custom.” Therefore when the agreement was executed in 1927 no goodwill (a property which may be bought and sold) existed in respect to this dormant licence, in so far as it affected beer, ale and porter. (*Commissioner of Inland Revenue v. Mueller* (1901) A.C. 217, at pp. 223 and 224). Appellant, however, agreed not to use the licence to manufacture and sell beer, ale and porter. It is binding, I think, on the conscience of the Appellant and while equity would prevent it from manufacturing beer having divested itself, in part, of its personal property rights under the licence or any renewals thereof; still standing alone it is not possible to regard it as an enforceable contract of purchase and sale *a fortiori* when no “good-will” (the specific subject-matter of the alleged sale) exists. 10 20

We must deal therefore with the remaining restrictive covenants not to manufacture or sell beer, &c., or to be interested in its manufacture or sale through others for fifteen years in any part of the world. In deciding whether or not such covenants are in restraint of trade a more liberal construction is applied as between a vendor and a purchaser than in cases where employers and employees are concerned (*Morris v. Saxelby* (1916) 85 L.J.-C.D. 210). Courts too may look favourably upon restraints imposed by parties contracting upon an equal footing even although the agreement may result in preventing competition in an effort to stabilize prices or even to fix prices, but not upon contracts between masters and servants in unequal positions (*English Hop Growers Limited v. Dering* (1928) 2 K.B.D. 174 at 180-1). 30

We have in the agreement under consideration in effect a sale with a covenant not to compete; in other words legal principles applicable to a sale and purchase apply. The skill of individuals is not involved. A vendor and purchaser are in essence concerned; they are so described in the agreement. That being so, the first principle is that the sale of a business however extensive is legal. In *North Western Salt Co. v. Electrolytic Alkali Co.* (1914) 83 L.J.K.B. 530 at 536, Viscount Haldane said:— 40

“And I agree with what was said by Lord Justice Lind-
“ley, one of the most cautious and accurate Judges of our

“time, in *Maxim-Nordenfelt Guns and Ammunition Co. v. Nordenfelt* (1892) 62 L.J. Ch. 273. ‘The interest of the public is no doubt adverse to monopolies and to restrictions on trade; but then its interest is to allow its members to carry on those businesses which they themselves prefer, and to abandon and sell to the best advantage those businesses which for any reason they do not wish to continue.’”

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10 One ought to be permitted to sell or realize upon any property or property rights acquired and if to protect the purchaser in the full enjoyment of the thing bought restrictive covenants are imposed on the vendor not wider than necessary to afford that protection the bargain will stand. Public policy is concerned with freedom of contract within reasonable limits (and in compelling observance of contracts) as well as with freedom of trade. It must be reasonable having regard to the respective interests of the parties, and not so far reaching as to create what some of the later cases call a “pernicious monopoly” inimical to the interests of the public. Even though some injury may be done to the public it is not always unenforceable. These principles apply to both time and space
20 and as to the latter because of the worldwide ramifications of business in modern days the restrictive covenants may be commensurate with the object aimed at, viz., the reasonable protection of the purchaser. (*Nordenfelt v. Nordenfelt Guns and Ammunition Co.* (1894) 63 L.J.C.D. 908 at 915 and 923). At the latter page Lord MacNaghten after stating the general rule that all interference with liberty of action in trading and all restraints of trade, if nothing more, is contrary to public policy states:—

30 “That is the general rule. But there are exceptions: “restraints of trade and interference with individual liberty “of action may be justified by the special circumstances of a “particular case. It is a sufficient justification, and indeed, “it is the only justification, if the restriction is reasonable— “reasonable, that is, in reference to the interests of the “parties concerned and reasonable in reference to the “interests of the public—so framed and so guarded as to “afford adequate protection to the party in whose favour it is “imposed, while at the same time it is in no way injurious to “the public. That, I think, is the fair result of all the authorities.”

40 It may be enforceable even if it creates a monopoly. I referred to agreements between equals which may for good cause result in fixing prices. It is only when carried to excess that the law intervenes.

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On the facts, however, as I view the evidence no monopoly of any sort is or will likely be created. Appellant was not in this branch of the business providing competition. We have other breweries in this Province and outside the Province to protect the consumer through competition. Limiting the number of breweries should increase the sale volume in remaining breweries but without necessarily enhancing prices. The Provincial Government through its Liquor Control Board is the only purchaser of beer in British Columbia and it can prevent exploitation if local dealers combine to enhance prices by purchasing elsewhere or by manufacturing on its own account. Figures given relating to production do not point to the likelihood of a monopoly. Any person or company, including Hewer who purchased the shares in Appellant company may obtain another licence under the Excise Act, if the department should be disposed to grant it. It is difficult to conceive of a situation where a monopoly dependent upon lack of competition might more easily be prevented. 10

In any event the onus of showing that this contract is calculated to create a monopoly or to unreasonably enhance prices lies on the party alleging it (*Attorney-General of Australia v. Adelaide Steamship Company* (1914) 83 L.J.P.C. 84 at 91) and there is no evidence, not even reasonable assumptions to provide that proof. Appellant and Respondent too might effect a combination if only to advance their own interests and not to injure others. If, therefore, the agreement is in the interests of the contracting parties (and they so regarded it when entered into) Appellant, a party to it now for other reasons alleging injury to the public, must prove it. It would not be easy in less difficult cases to discharge that onus and I have no doubt that it was not discharged in this case. Injury to the public is the test and in some cases monopolies may serve public purposes. Usually those who oppose the traffic in liquor favor the limitation of brewery licences. One can conceive of conditions too, where the enhancement of prices may be necessary to preserve an industry and to distribute its benefits over a large area. As stated by Viscount Haldane in *North Western Salt Company v. Electrolytic Alkali Co.* (1914) *Supra*, at page 534:— 30

“But an ill-regulated supply and unremunerative prices
 “may, in point of fact, be disadvantageous to the public.
 “Such a state of things may, if it is not controlled, drive
 “manufacturers out of business, or lower wages, and so cause
 “unemployment and labour disturbances. It must always be
 “a question of circumstances whether a combination of manu-
 “facturers in a particular trade is, an evil from a public point
 “of view. The same thing is true of a supposed monopoly. 40

“In the present case there was no attempt to establish a real
 “monopoly, for there might have been great competition from
 “abroad or from other parts of these islands than the part
 “which was the field of the agreement.”

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 Macdonald,
 J.A.
 Jan. 27, 1933
 (Cont'd)

It cannot be deduced, therefore, either from the terms of the agreement or from the evidence that it is injurious to the public in any respect. True the covenant is world-wide in its application. Appellant may not manufacture brew or sell beer for fifteen years in any place. One might reasonably submit that it should
 10 be restricted as to space. I do not think however the parties to the agreement had in mind a restriction on brewing anywhere, but even if it must be read literally it is still, in my opinion, valid. The fact that the time is limited bears on this point. It will remain in force for nine or ten years. The agreement is not attacked on the ground that Appellant desires to operate abroad. If it suggests the remote possibility that it suffers a hardship in being prevented from brewing beer, *e.g.*, in some part of China, Respondent may assert with equal force that through the develop-
 20 ment of commerce in modern days beer is or may be exported to all parts of the world where it may be legally purchased and to protect its foreign trade this restriction is necessary. (*Nordenfelt case, supra*, pages 915-16). If Appellant could profitably brew abroad it could only do so by securing markets and customers otherwise within the reach of the Respondent.

Other objections were raised. It was submitted that an agreement by Appellant to restrict its operations or to limit its corporate powers is invalid. That would prevent any company from selling its undertaking or business. The powers under its charter were not conferred for the promotion of public purposes as in
 30 *The Montreal Park and Island Ry. Co. v. Chateauguay & Northern Ry. Co.* (1904) 35 S.C.R. 48. Any Company having corporate powers unless conferred for public purposes may agree not to exercise them in competition with another (*McCausland v. Hill* (1896) 23 Ont. A.R. 738). It follows too that there is no breach of any sections of the Criminal Code or of the Combines Act.

I would dismiss the appeal.

(Sgd.) “M. A. MACDONALD,”

J.A.

40 Victoria, B.C.,
 27th January, 1933.

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RECORD

COURT OF APPEAL

Court of Appeal

No. 13
Judgment
Jan. 27, 1933

BETWEEN: VANCOUVER BREWERIES LIMITED,
Plaintiff (Respondent),
AND: VANCOUVER MALT & SAKE BREWING
COMPANY LIMITED,
Defendant (Appellant).

CORAM:

THE HONOURABLE THE CHIEF JUSTICE OF 10
BRITISH COLUMBIA,
THE HONOURABLE MR. JUSTICE MARTIN,
THE HONOURABLE MR. JUSTICE GALLIHER,
THE HONOURABLE MR. JUSTICE McPHILLIPS,
THE HONOURABLE MR. JUSTICE M. A. MAC-
DONALD.

No. 13

JUDGMENT

Victoria, B.C., the 27th day of January, A.D. 1933.

THIS APPEAL of the above named Defendant (Appel- 20
lant) from the judgment pronounced by the Honourable Mr.
Justice McDonald on the 7th day of June, 1932, having come on
for hearing at the City of Vancouver, B.C., on the 10th, 14th,
15th, 16th and 17th days of November 1932; and upon hearing Mr.
J. W. deB. Farris, K.C., and Mr. H. B. Robertson, K.C., of counsel
for the above named Respondent, and Mr. D. N. Hossie, K.C. and
Mr. R. M. Macdonald, of counsel for the above named Appellant,
and upon reading the appeal book herein, this Court was pleased
to direct that this appeal stand over for judgment, and the same
coming on this day for judgment; 30

THIS COURT DOTH ORDER AND ADJUDGE that the
said appeal be and the same is hereby dismissed.

AND THIS COURT DOTH ALSO ORDER AND AD-
JUDGE that the Plaintiff (Respondent) do recover against the
Defendant (Appellant) its costs of this appeal to be taxed.

BY THE COURT,

"Minutes filed" "J.F.M.," R.
"J.A.M.," C.J.

"J. F. MATHER,"
Registrar.

119 BB

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COURT OF APPEAL

RECORD
Court of Appeal

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff (Respondent),

AND:

VANCOUVER MALT & SAKE BREWING
COMPANY LIMITED,
Defendant (Appellant).

No. 14
Provisional
Order for
Leave to
Appeal
Feb. 6, 1933

CORAM:

10 THE HONOURABLE THE CHIEF JUSTICE OF
BRITISH COLUMBIA,
THE HONOURABLE MR. JUSTICE McPHILLIPS,
THE HONOURABLE MR. JUSTICE M. A. MAC-
DONALD.

No. 14

PROVISIONAL ORDER FOR LEAVE TO APPEAL

Victoria, B.C., the 6th day of February, A.D. 1933:

20 UPON MOTION of the Defendant (Appellant) for leave to
appeal to the Judicial Committee of the Privy Council from the
judgment of this Honourable Court delivered on the 27th day of
January A.D. 1933 dismissing the Appeal herein, coming on this
day for hearing before this Honourable Court at the City of Vic-
toria: AND UPON reading the Notice of Motion dated the 2nd
day of February A.D. 1933: AND UPON reading the affidavit
of Glenholme Ferguson McMaster sworn herein the 2nd day of
February A.D. 1933 and filed and the Appeal Book herein; AND
UPON hearing Mr. D. N. Hossie, K.C., of Counsel for the Defend-
ant (Appellant) and Mr. H. G. S. Heisterman of Counsel for the
Plaintiff (Respondent):

30 THIS COURT DOTH ORDER that subject to the perform-
ance by the said Defendant (Appellant) of the conditions herein-
after mentioned, and subject to the final Order of this Court upon
the due performance thereof, leave to appeal to His Majesty in his
Privy Council against the said judgment of this Honourable
Court be granted to the Defendant (Appellant):

AND THIS COURT DOTH FURTHER ORDER that the
said Defendant (Appellant) do within two months from the date
hereof, provide security to the satisfaction of this Honourable

RECORD
Court of Appeal
 No. 14
 Provisional
 Order for
 Leave to
 Appeal
 Feb. 6, 1933
 (Cont'd)

Court in the sum of Three hundred pounds sterling (£300.0.0) for the due prosecution of the said Appeal, and the payment of all such costs as may become payable to the Plaintiff (Respondent) in the event of the Defendant (Appellant) not obtaining an Order granting final leave to appeal, or of the appeal being dismissed for want of prosecution and for the payment of such costs as may be awarded by His Majesty His heirs and successors, or by the Judicial Committee of the Privy Council to the said Plaintiff (Respondent) on such Appeal.

AND THIS COURT DOTH FURTHER ORDER that the 10
 Defendant (Appellant) do within five months from the date of this Order in due course take out all necessary appointments for settling the transcript Record on such Appeal to enable the Registrar to certify that the transcript Record has been settled, and that the provisions of this Order on the part of the Defendant (Appellant) have been complied with:

AND THIS COURT DOTH FURTHER ORDER that the
 cost of the transcript Record on appeal, and of all necessary certificates and of all costs of and occasioned by the said Appeal, shall abide the decision of the Privy Council with respect to the 20
 costs of appeal.

AND THIS COURT DOTH FURTHER ORDER that the
 said Defendant (Appellant) be at liberty within the said period of five months from the date of this Order to apply ex parte for a final order for leave to appeal as aforesaid on the production of a certificate under the hand of the Registrar of due compliance on its part with the terms of this Order.

AND THIS COURT DOTH FURTHER ORDER that all
 parties may be at liberty to apply to this Court wheresoever the same may be sitting.

BY THE COURT, 30

“B. H. TYRWHITT DRAKE,”

Registrar.

“J. A. M.,”
 C.J.

119 DD

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54/32 RECORD

COURT OF APPEAL

Court of Appeal

No. 15
Registrar's
Certificate
Apr. 21, 1933

BETWEEN :

VANCOUVER BREWERIES LIMITED

(Plaintiff) Respondent,

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED

(Defendant) Appellant.

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No. 15

REGISTRAR'S CERTIFICATE

In pursuance of the Order made herein and dated the 6th February, 1933, I have been attended by the Solicitors for the Plaintiff and Defendant, and find as follows:—

1. The Defendant (Appellant) has provided a Bond by the Fidelity Insurance Company of Canada, an approved surety company in the sum of £300.0.0 sterling as security for the due prosecution of the Appeal to His Majesty the King in his Privy Council by the said Defendant (Appellant) from the Judgment dated the
20 27th January, 1933, and for the payment of all such costs as may become payable to the Plaintiff (Respondent) in the event of the Defendant (Appellant) not obtaining an Order granting leave to appeal, or the Appeal being dismissed for want of prosecution and the payment of such costs as may be awarded by His Majesty, his Heirs or Successors or the Judicial Committee of the Privy Council to the Plaintiff (Respondent) on such Appeal:

2. The said Defendant (Appellant) has taken out all necessary appointments and done all other acts for the purpose of settling the Transcript Record on such Appeal, and enabling me to
30 certify that the said Transcript Record has been settled and that the provisions of the said Order on the part of the Defendant (Appellant) have been complied with, save as to the approval by the Court of the security ordered.

ALL of which I humbly certify to this Honourable Court.

DATED at Vancouver, B. C., this 21st day of April, 1933.

“J. F. MATHER,”

Registrar.

(SEAL)

119 EE

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RECORD

Court of Appeal

No. 16
Final Order
Apr. 26, 1933

COURT OF APPEAL

54/32

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff (Respondent),

AND:

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,
Defendant (Appellant).

CORAM:

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THE HONOURABLE THE CHIEF JUSTICE OF
BRITISH COLUMBIA,
THE HONOURABLE MR. JUSTICE McPHILLIPS,
THE HONOURABLE MR. JUSTICE M. A. MAC-
DONALD.

No. 16

FINAL ORDER

Victoria, B.C., the 26th day of April, A.D. 1933.

UPON the application of the Defendant (Appellant) coming
on for hearing this day before this Honourable Court AND 20
UPON reading the Order made herein on the 6th day of Feb-
ruary 1933 and a Certificate of the Registrar dated the 21st day
of April 1933 of due compliance with the said Order save as to
whether the security filed is to the satisfaction of this Court, AND
UPON hearing Mr. D. N. Hossie, K.C., of Counsel for the Defend-
ant (Appellant) and Mr. Gordon McG. Sloan of Counsel for the
Plaintiff (Respondent).

THIS COURT DOTH HEREBY APPROVE THE SE-
CURITY FILED AND ORDER that leave to appeal to His 30
Majesty in his Privy Council be granted to the Defendant (Appel-
lant) by the Court.

By the Court.

“J. F. MATHER,”
Registrar.

Settled

“J.A.M.,”

C.J.B.C.

Mr. Hossie: Very well; I will not discuss it further.

The Court: I find, without any hesitation, that Exhibit 12 as it now stands so stood when it was executed by the parties, and that those seals were affixed and those signatures were attached. You can discuss it as long as you like, but that is my finding.

Mr. Hossie: Does your lordship make a similar finding as to 13?

The Court: 13—I do not think I am required to make a finding. It does not seem to me it makes any difference.

10 Mr. Hossie: Then I make the point formally, that if the document had been altered, that if your lordship's finding had been the reverse, the agreement would not be binding upon the defendant company in any way?

The Court: What is that again?

Mr. Hossie: That if your lordship's finding were the reverse, that the agreement had been altered after the seal of the defendant company was affixed to it, the agreement would not be binding upon the defendant company?

20 The Court: Oh, well, the other court, of course, will decide that if they do reverse it.

RECORD

*In the Supreme
Court of British
Columbia*

Remarks of
Court in course
of Argument
relative to
Plaintiff's
witness Tobin
(Contd.)

RECORD

EXHIBIT No. 2

S. C. 437/32.

*In the Supreme
Court of British
Columbia*Supreme Court of B.C.
Vancouver RegistryExhibit No. 2
Memorandum
of Association
Vancouver
Breweries
Ltd.
Oct. 5, 1912
(Contd.)

Exhibit No. 2

Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932.
"F. T. H," Registrar.

"COMPANIES ACT"

10

REVISED STATUTES OF BRITISH COLUMBIA, 1911
AND AMENDING ACTMEMORANDUM OF ASSOCIATION
OF
VANCOUVER BREWERIES, LIMITED

1. The name of the Company is "Vancouver Brewers, Limited."
2. The Registered Office of the Company is to be situate at the City of Vancouver, in the Province of British Columbia.
3. The objects for which the Company is established are: 20
 - (a) To carry on business as brewers, distillers, and manufacturers of and merchants and dealers in beer, ale, porter, stout, wines, spirits, aerated waters, and liquors of every description, whether intoxicating or not, and of casks, bottles and other receptacles for the same, and of hops, malt, grain, meal, yeast, and all other materials and things capable of being used in connection with any such businesses or manufactures;
 - (b) To carry on the business of licensed victualers, hotel, tavern, and lodging house keepers, caterers, and purveyors of refreshments and stores of every description, 30
tobacconists, carriers, livery stable keepers, farmers, dairy-men, stock raisers, and isinglass merchants;
 - (c) To purchase, take on lease, or in exchange, hire, or otherwise acquire, any real and personal property, and any rights or privileges which the Company may think necessary or convenient for the purposes of its business, and in particular and without limiting the general powers hereby conferred, any breweries, hotels and saloons and the lands, leases, lots, buildings, easements, machinery, plants, stock-in-trade, good- 40
will, goods and chattels in connection therewith, and to have, hold, enjoy, sell, and improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account, and otherwise

deal with all or any part of the same, and all or any part of the property and rights of the Company;

(d) To lend or advance money to such persons and on such security and terms as may seem expedient, and in particular to customers, and all persons having dealings with the Company, and to give any guarantee or indemnity that may seem expedient;

10 (e) To buy, sell, manipulate, and deal, both wholesale and retail, in any commodities, articles and things of all kinds, which can conveniently be dealt in by the Company in connection with any of its business;

(f) To acquire water and water power by records of unrecorded water, or by the purchase of water, or by the purchase of water records or water privileges;

(g) To acquire, operate and carry on the business of a power company, and construct and operate works, and supply and utilize water under the "Water Act," or any amendments thereof, or any other Act passed in substitution therefor, or as an extension thereof;

20 (h) To distribute, sell, supply or use water power for mechanical irrigation, domestic or any other purposes for which water or other power may be supplied, sold or used;

(i) To apply water or water power for producing any form of power, or for producing and generating electricity for the purposes of light, heat and power, or any other purpose for which electricity may be applied;

30 (j) To render water and water power available for use, application and distribution by erecting dams, increasing the head of water in any existing body of water, or extending the area thereof, diverting the waters of any stream, pond or lake into any other channel or channels, laying or erecting any line of flume, pipe or weir, and constructing any raceway, reservoir, aqueduct, weir, wheel, building, or other erection or works which may be required in connection with the improvement and use of the said water or water power, or by altering, renewing, extending, improving, repairing or maintaining any such works, or any part thereof;

40 (k) To carry on the business of an electric light company in all its branches, and in particular to construct, lay down, establish, fix, and carry out all necessary cables, wires, lines, accumulators, lamps, and works, and to generate, accumulate, distribute and supply electricity to and light buildings, streets, docks and places both public and private;

RECORD

*In the Supreme
Court of British
Columbia*Exhibit No. 2
Memorandum
of Association
Vancouver
Breweries
Ltd.Oct. 5, 1912
(Contd)

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 2
Memorandum
of Association
Vancouver
Breweries
Ltd.

Oct. 5, 1912
(Contd.)

(l) To construct, operate and maintain electrical works, power houses, generating plant and such other appliances and conveniences as are necessary and proper for generating electricity or any other form of developed power, and for transmitting the same to be used by the Company or any persons or corporations contracting with the Company therefor, as a motive power for all or any of the purposes to which electricity or electric power derived from water may be applied, used or acquired;

(m) To contract with any person, body corporate or politic, for supplying compressed air and electricity or water power to any such person, body, corporate or politic, or to any streets, ways, lanes, passages, tramways, mines, smelters, mills, manufactories, ships, warehouses, public or private houses, buildings and places, and from time to time to lay down, carry, fit up, connect and finish any cumulative, storage battery, cable, wiring, pipes, flumes, switch, connections, branch, burner, lamp, meter, transformer, or other apparatus, for or in connection with any compressed air, water or electric main, pipe, lead or cable, which for such purposes may be required, and let any such apparatus for hire for such sum as may be agreed upon;

(n) To buy, sell, repair, build, charter, hire, and operate steamers, tugs, barges, ships and other vessels, and to employ the same in the conveyance of passengers, mails and merchandise of all kinds;

(o) To carry on the business of merchants, carriers by land and water, ship owners, wharfingers, warehousemen, scow owners, barge owners, lightermen, and forwarding agents;

(p) To carry on the business of ship owners, in all its branches;

(q) To establish, operate, and maintain stores, boarding houses, trading posts, and to carry on a general mercantile business;

(r) To apply for, purchase, or otherwise acquire any patents, brevets d'invention, licenses, concessions and the like, conferring any exclusive or non-exclusive or limited right to use any secret or other information as to any inventions which may seem capable of being used to the advantage or benefit of the Company, and to use, exercise, and develop or grant licences in respect of, or otherwise turn to account the property or information acquired;

(s) To undertake and carry into effect all such financial, trading or other operations or businesses in connection with the objects of the Company as the Company may think fit;

(t) To acquire and carry on all or any part of the business or property, and to undertake any liabilities of any person, firm or association, or company, possessed of property suitable for the purposes of this Company, or carrying on any business which this Company is authorized to carry on, or which can be conveniently carried on in connection with the same, or may seem to the Company calculated directly or indirectly to benefit this Company, and as the consideration for the same to pay cash or to issue any shares, stocks or obligations of this Company;

10

(u) To enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint adventure, reciprocal concessions, or otherwise, with any person or company carrying on, or engaged in, or about to carry on or engage in, any business or transaction which this Company is authorized to carry on or engage in, or any business or transaction capable of being conducted so as to directly or indirectly benefit this Company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares and securities of any such company, and to sell, re-issue, with or without guarantee, or otherwise deal with the same;

20

(v) To sell or dispose of the undertaking of the Company, for such consideration as the Company may think fit, and in particular, for shares, debentures, or securities of any other company having objects altogether or in part similar to those of this Company;

(w) To promote any company or companies for the purpose of acquiring all or any of the property and liabilities of this Company, or for any other purpose which may seem directly or indirectly calculated to benefit this Company;

30

(x) To obtain any Act of Parliament, or apply to the Executive Authority for any order for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated, directly or indirectly, to prejudice the Company's interests;

40

(y) To enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects, or any of them, and to obtain from any such Government or authority any rights, privileges, bonus or concessions which the Company may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;

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Oct. 5, 1912
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(z) To borrow or raise money for any purpose of the Company, and for the purpose of securing the same and interest, or for any other purpose, to mortgage or charge the undertaking, or all or any part of the property of the Company, present or after acquired, or its uncalled capital;

(aa) To create, issue, make, draw, accept, indorse, and negotiate perpetual or redeemable bonds, debentures or debenture stock, promissory notes, bills of exchange, bills of lading, warrants, obligations and all other negotiable and transferable instruments;

(bb) To take or otherwise acquire and hold shares in any other company carrying on any business capable of being conducted so as directly or indirectly to benefit this Company;

(cc) To distribute any of the property of the Company among its members in specie;

(dd) To pay out of the funds of the Company all expenses of, or incidental to the formation, registration, and advertising of the Company, and to remunerate any person or company for services rendered, or to be rendered in placing, or assisting to place, or guaranteeing the placing of any shares in the Company's capital, or any debentures or other securities of the Company, or in or about the formation or promotion of the Company, or the conduct of its business;

(ee) To sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account, or otherwise deal with the undertaking, or all or any part of the property and rights of the Company, with power to accept as the consideration any shares, stocks, or obligations of any other company;

(ff) To do all such other things as are incidental or conducive to the attainment of the above objects, or any of them.

It is hereby declared that the intention is, that the objects specified in each paragraph of this clause, except where otherwise explained in such paragraph, shall be in nowise restricted by reference to or inference from the terms of any other paragraph, or the name of the Company.

4. The liability of the members is limited.

5. The capital of the Company is Two hundred and fifty thousand dollars (\$250,000.00), divided into Two thousand five hundred (2,500) shares of One hundred dollars (\$100.00) each, with power to increase and divide into several classes, and to attach thereto respectively any preferential, deferred, qualified, or special rights, privileges, or conditions as to payment of dividends, distribution of assets, voting and otherwise.

We, the undersigned persons, whose names and addresses are subscribed hereto, are desirous of being formed into a Company in pursuance of this Memorandum of Association and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

RECORD
In the Supreme
Court of British
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Exhibit No. 2
Memorandum
of Association
Vancouver
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Oct. 5, 1912
(Cont.)

NAMES, ADDRESSES AND DESCRIPTIONS OF SUBSCRIBERS	Number of Shares taken by each Subscriber
CLARENCE MAWSON MARPOLE, Coal and Commission Merchant - - - 427 Seymour St., Vancouver, B.C. -	One Share
10 JAMES HILL LAWSON, Junior, Solicitor, Vancouver, B.C. - - - -	One Share
WILLIAM STUART LANE, Solicitor, Vancouver, B.C. - - - -	One Share
ROBERT GORDON PARKER, Stenographer, Vancouver, B.C.	One Share
LAURA LAVINA MCGHEE, Stenographer, Vancouver, B.C.	One Share

Dated this 5th day of October, A.D. 1912.

Witness to the above signatures,

20

MARVIN THOREAU,
Clerk, Vancouver, B.C.

Articles of Association of the Plaintiff Company being part of exhibit No. 2, is by consent omitted and either party is to be at liberty to refer to the same on the hearing of the pending appeal or any further appeal.

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 1
Certificate of
Incorporation
Vancouver
Breweries
Nov. 7, 1912

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 1
Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932.
"F. T. H," Registrar.
No. 1590 (1910)

EXHIBIT No. 1
"COMPANIES ACT"

S. C. 437/32.

10

CANADA:
PROVINCE OF BRITISH COLUMBIA
COAT OF ARMS

CERTIFICATE OF INCORPORATION

I HEREBY CERTIFY that "Vancouver Breweries Limited" has this day been Incorporated under the "Companies Act" as a limited company with a Capital of Two Hundred and Fifty Thousand Dollars, divided into Two Thousand Five Hundred Shares.

20

The head office of the Company is situate at the City of Vancouver, Province of British Columbia.

GIVEN under my hand and Seal of Office at Victoria, Province of British Columbia, this seventh day of November, one thousand nine hundred and twelve.

"H. G. GARRETT,"
Registrar of Joint Stock Companies.

(SEAL)
Registrar of Joint Stock Companies

EXHIBIT No. 3

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 3
 Vancouver Breweries vs.
 Vancouver Malt & Sake
 Put in by "P" Date June 1st, 1932.
 "F. T. H," Registrar.

RECORD
 S. C. 437/32. *In the Supreme Court of British Columbia*
 Exhibit No. 3
 Memorandum of Association
 Vancouver Malt & Sake
 Brewing Co., Ltd.
 July 5, 1923

10 Certified a true copy
 April 6th, 1932.
 "H. G. Garrett,"
 Registrar of Companies

Original filed and registered the 11th day of July, 1923.
 "H. G. Garrett,"
 Registrar of Companies

"COMPANIES ACT"

MEMORANDUM OF ASSOCIATION

OF

VANCOUVER MALT & SAKE BREWING COMPANY
 LIMITED

20 A PRIVATE COMPANY LIMITED BY SHARES

1. The name of the Company is Vancouver Malt & Sake Brewing Company, Limited.

2. The registered office of the Company shall be situate at No. 326 Woodland Drive, in the City of Vancouver, Province of British Columbia.

3. The objects for which the Company has been incorporated are as follows:

(a) To acquire and take over as a going concern the
 30 business known as the "Morut Company," now carried on at No. 326 Woodland Drive, in the City of Vancouver, Province of British Columbia, by Koichiro Sanmiya, as a Maltster, under Maltster's Licence No. 1, General No. 2381, and with a view thereto to enter into and carry into effect, either with or without modification an Agreement which has already been prepared, and is expressed to be between the said Koichiro Sanmiya (carrying on business as said Morut Company) of the one part, and the Company of the other

RECORD
 In the Supreme
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Exhibit No. 3
 Memorandum
 of Association
 Vancouver
 Malt & Sake
 Brewing Co.,
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 July 5, 1923
 (Contd.)

part (a copy of which has, for the purpose of identification, been initialled by Frank A. Jackson, Esq., solicitor for the said Koichiro Sanmiya).

(b) To carry on the business of Brewers and Maltsters in all their branches.

(c) To carry on all or any of the businesses of rice merchants and growers, malt factors, coopers and bottlers, bottle makers, bottle stopper makers, potters, manufacturers of and dealers in aerated and mineral waters and other drinks, ice manufacturers and merchants, farmers, yeast dealers and brickmakers, importers and exporters, warehousemen, forwarders, carriers, and the like. 10

(d) To purchase, take on lease or in exchange, hire, or otherwise acquire any real and personal property and any rights or privileges which the Company may think necessary or convenient for the purposes of its business, and in particular, and without limiting the general powers hereby conferred, any breweries, and the lands, leaseholds, terms, buildings, easements, machinery, plant, stock-in-trade, goodwill, goods and chattels in connection therewith, and to have, hold, enjoy, sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account, and otherwise deal with all or any part of the same, and all or any part of the property and rights of the company. 20

(e) To lend or advance money to such persons and on such security and terms as may seem expedient, and in particular to customers and all persons having dealings with the Company, and to give any guarantee or indemnity that may seem expedient, and to discount bills.

(f) To buy, sell, manipulate and deal, both wholesale and retail, in commodities, articles, and things of all kinds which can conveniently be dealt in by the Company in connection with any of its objects. 30

(g) To carry on any other business, whether manufacturing or otherwise, which may seem to the Company capable of being conveniently carried on in connection with any of the above businesses or objects, or calculated, directly, or indirectly, to enhance the value of or render profitable any of the Company's properties or rights for the time being.

(h) To acquire and undertake the whole or any part of the business, properties, or liabilities of any person or company carrying on any business which this Company is authorized to carry on, or possessed of any property suitable for the purpose of this Company. 40

(i) To allot, credited as fully or partly paid up, the shares or bonds, debentures, or debenture stock of the Company as the whole or part of the purchase price for any property acquired by the Company, or for services rendered, or other valuable consideration.

10 (j) To apply for, purchase, or otherwise acquire any patents, licences, concessions, and the like, conferring any exclusive or unexclusive or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company, or the acquisition of which may seem calculated, directly or indirectly, to benefit the Company; and to use, exercise, develop, or grant licences in respect of or otherwise turn to account the property, rights, or information so acquired.

20 (k) To enter into partnership, or any joint-purse arrangement, or any arrangement for sharing profits, union of interests, joint adventure, co-operation with, or agency for, any company, firm, or person carrying on or engaged in, or about to carry on or engage in, any business or transactions which this Company is authorized to carry on or engage in, or any business or transaction capable of being conducted so as, directly or indirectly, to benefit this Company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, reissue, or otherwise deal with the same.

30 (l) To take or otherwise acquire and hold shares in any other company having objects altogether or in part similar to those of this Company, or carrying on any business capable of being conducted so as, directly or indirectly, to benefit this Company.

(m) To enter into any arrangement with any Government or authorities (Federal, Provincial, municipal, local, or otherwise) that may seem conducive to the Company's objects or any of them, and to obtain from any such Government or authority any rights, privileges, and concessions which the Company may think it desirable to obtain, and to carry out, exercise, and comply with any such arrangements, rights, privileges, and concessions.

40 (n) To acquire, construct, improve, maintain, work, manage, carry out, control, sell, lease, mortgage or otherwise dispose of any roads, ways, wharves, manufactories, warehouses, electric works, gas-works, shops, stores, trading-posts, and other works and conveniences which may seem calculated, directly or indirectly, to advance the Company's interests; and to contribute to, subsidize or otherwise assist or

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Exhibit No. 3
Memorandum
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Vancouver
Malt & Sake
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July 5, 1923
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Exhibit No. 3
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Malt & Sake
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July 5, 1923
(Contd.)

take part in the construction, improvement, maintenance, working, management, carrying-out, or control thereof.

(o) To invest and deal with the moneys of the Company not immediately required upon such securities and in such manner as may from time to time be determined.

(q) To borrow, raise, or secure the payment of money in such requisite manner as the Company shall think fit, and in particular by the issue of debentures, mortgage debentures, or debenture stock, perpetual or otherwise, charged upon all or any of the Company's property, both present and future, including, its uncalled capital, and to reissue or redeem or pay off any such securities, and to pledge the same or any of them as security for temporary loans. 10

(q) To draw, make, accept, indorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures, and other negotiable or transferable instruments or securities.

(r) To promote any company or companies for the purpose of acquiring all or any of the property and liabilities of this Company, or for any other purpose which may seem, directly or indirectly, to benefit this Company. 20

(s) To sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit, and in particular for shares, debentures, or other securities of any other company having objects altogether or in part similar to those of this Company.

(t) To amalgamate with any other company having objects altogether or in part similar to those of this Company.

(u) To distribute any of the property of the Company in specie among the members. 30

(v) To pay the costs, charges and expenses preliminary and incidental to the formation or promotion of the Company or the conduct of its business, and to remunerate by commission, brokerage or otherwise any person or company for services rendered or to be rendered in relation to formation or promotion of the Company or the conduct of its business, or placing or assisting to place, or guaranteeing the placing of, any of the shares in the Company's capital or any debenture or other securities of the Company.

(w) If thought fit, to obtain any Act of Parliament dissolving the Company and re-incorporating its members as 40

a new Company for any of the objects specified in this memorandum, or for effecting any other modification in the Company's constitution.

(x) To do all or any of the above things in any part of the world where the law permits, and as principals, agents, contractors, or otherwise, and by or through trustees, agents, or otherwise, and either alone or in conjunction with others.

(y) To procure the Company to be registered or licensed in any part of the world.

10 (z) To do all such other things as are incidental or may be thought conducive, to the attainment of the above objects or any of them, and to that the word "Company" in this memorandum, when applied otherwise than to this Company, shall be deemed to include any partnership or other body of persons, whether corporate or incorporate and whether domiciled in British Columbia or elsewhere, and the objects specified in each of the paragraphs in this memorandum shall be regarded as independent objects, and accordingly shall be in nowise limited or restricted (except when otherwise expressed in such paragraphs) by reference to the objects indicated 20 in any other paragraph or the name of the Company, but may be carried out in as full and ample manner and construed in as wide a sense as if each of the said paragraphs defined the objects of a separate, distinct, and independent company.

4. The liability of the members is limited.

5. The capital of the Company is One Hundred Thousand Dollars (\$100,000.00) divided into one thousand (1000) shares of One hundred dollars (\$100.00) each.

30 We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

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In the Supreme
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Exhibit No. 3
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Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 5, 1923
(Contd.)

RECORD	FULL NAMES, ADDRESSES & DESCRIPTIONS OF SUBSCRIBERS	Number of Shares Taken by each Subscriber
<i>In the Supreme Court of British Columbia</i> Exhibit No. 3 Memorandum of Association Vancouver Malt & Sake Brewing Co., Ltd. July 5, 1923 (Contd.)	"KOICHIRO SANMIYA," 326 Woodland Drive, Vancouver, B. C. Maltster. - - - - -	(50)
	"FRANK ALEXANDER JACKSON," 921 Birks Bldg., Vancouver, B. C., Barrister-at-law - - - - -	(1)

Dated at Vancouver, British Columbia, this 5th day of July,
A. D. 1923.

Witness to the above signatures:

10

"HERBERT EDWIN DEPENCIER,"
1264-14th Ave. West,
Vancouver, B. C.
Occupation Student-at-law.

COMPANIES ACT, 1921

Special resolution of Vancouver Malt & Sake Brewing Com-
pany, Limited.

Passed 14th August 1924. Confirmed 2nd September 1924.

At an extraordinary general meeting of the members of the
said Company duly convened and held at the office of the Com-
pany's Solicitor, 921 Birks Building, Vancouver, B.C. on the
14th day of August 1924, all members entitled to vote being pre-
sent in person, the following special resolution was duly passed
by a unanimous vote, and at a subsequent extraordinary general
meeting of the members of the said Company, also duly convened
and held at the place aforesaid on the 2nd day of September 1924,
and at which all of the members entitled to vote were present,
the following special resolution was duly confirmed:

"that the capital of the Company be subdivided into 10,000
shares of \$10.00 each."

30

Certified a true copy this 25th day of September, 1924.

"K. Sanmiya,"

Secretary.

(Seal)

Original filed and regis-
tered the 9th day of
October 1924.

"H. G. GARRETT"
Registrar of Companies

EXHIBIT No. 4

S. C. 437/32.

RECORD
*In the Supreme
Court of British
Columbia*

"COMPANIES ACT, 1921"

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITEDExhibit No. 4
Articles of
Association
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 5, 1923

PRELIMINARY

10 Supreme Court of B.C.
Exhibit No. 4
Vancouver Registry
Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932.
"F. T. H," Registrar.

Certified a true copy
April 6th, 1932.

"H. G. GARRETT,"
Registrar of Companies

20

Original filed and regis-
tered 11th day of July,
1923.

"H. G. GARRETT,"
Registrar of Companies

Exclusion of
Table "A"

1. The regulations contained in Table "A" in the First Schedule to the "Companies Act 1921" shall not apply to this Company.

Interpreta-
tion Article

30

2. In these Articles unless the context otherwise requires—

"The Statute" shall mean the "Companies Act 1921" and every other Act incorporated therewith or any Act or Acts of Parliament substituted therefore; and in case of any such substitution the reference in these presents to the provisions of non-existing Acts of Parliament shall be read as referring to the provisions substituted therefor in the new Act or Acts of Parliament.

40

"The Register" shall mean the Register of Members to be kept as required by Section 66 of the "Companies Act 1921" or any statutory modification thereof.

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*In the Supreme
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Exhibit No. 4
Articles of
Association
Vancouver
Malt & Sake
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Ltd.
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(Contd.)

“Month” shall mean calendar month.

“Paid up” shall include “credited as paid up.”

“Secretary” shall include any person appointed to perform the duties of Secretary temporarily.

Words which have a special meaning assigned to them in the Statute shall have the same meaning in these presents.

Words importing the singular number only shall include the plural and the converse shall also apply.

Words importing males shall include females.

10

3. The Company is to be a private company and accordingly the following provisions shall have effect namely:

(a) The number of members for the time being of the Company (exclusive of persons who are for the time being in the employment of the Company) is not to exceed fifty (50), but where two or more persons hold one or more shares in the Company jointly, they shall, for the purpose of this paragraph, be treated as a single member.

20

(b) Any invitation to the public to subscribe for any shares, debentures or debenture stock of the Company is hereby prohibited.

(c) The right of transfer of shares shall be restricted as provided by clauses 23 and 29 of these Articles.

4. None of the funds of the Company shall be employed in the purchase of or lent on shares of the Company.

5. The business of the Company may be commenced as soon after the incorporation of the Company as the Directors shall think fit and notwithstanding that part only of the shares may have been allotted.

30

BUSINESS

6. The Company shall forthwith enter into an agreement with Koichiro Sanmiya, carrying on business as the “Morut Company” in the terms of a draft agreement, a copy whereof has for the purpose of identification been subscribed by Frank A. Jackson, Barrister-at-Law, and the Directors shall carry the said agreement into effect with full power nevertheless from time to time to agree to any modifications of the terms of such agreement, either before or after the execution thereof.

40

- RECORD
In the Supreme Court of British Columbia
Exhibit No. 4
Articles of Association
Vancouver Malt & Sake
Brewing Co., Ltd.
July 5, 1923
(Contd.)
- 10 7. The basis on which the Company is established is that the Company shall acquire the property comprised in the said agreement in the preceding clause mentioned on the terms therein set forth and accordingly it shall be no ground of objection to the said agreement that the vendor is or may be legally in the position of promoter of this Company or stand in a fiduciary capacity towards the Company, or that the Directors of this Company do not constitute an independent board or are nominees of the vendor; nor shall the vendor be accountable for the benefits secured to him or which he may obtain under the said agreement; and every member of the Company present and future is to be deemed to join the Company on this basis.
- Payment of Commission
- 20 8. The Company may pay commission to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares in the Company or procuring or agreeing to procure subscriptions whether absolute or conditional for any shares in the Company to any amount not exceeding fifty (50%) per cent. on the shares in each case subscribed or to be subscribed.
- Allotment of Shares
9. Subject to the provisions of the agreement referred to in Article 6 hereof, the shares shall be under the control of the Directors, who may allot and dispose of the same to such persons on such terms and in such manner as they think fit. Shares may be issued at par or at a premium.
- Difference in Amounts Paid on Shares
- 30 10. The Company may make arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid and in the time of payment of such calls.
- Trusts not recognized
11. The Company shall be entitled to treat the person whose name appears upon the Register in respect of any share as the absolute owner thereof, and shall not be under any obligation to recognise any trust or equity or equitable claim to or interest in such share whether or not it shall have express or other notice thereof.
- 40 Certificates how signed
12. Every member shall be entitled without payment to one certificate under the common seal of the Company signed by one Director and the Secretary specifying the share or shares held by him with the distinctive numbers thereof and the amount paid up thereon. Such certificate shall be delivered to the mem-

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 Exhibit No. 4
 Articles of
 Association
 Vancouver
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ber within two months after the allotment or registration of the transfer as the case may be of such share or shares.

13. If any member shall require additional certificates he shall pay for each such additional certificate such sum not exceeding twenty-five (25c.) cents as the Directors shall determine.

14. If any certificate be defaced, worn out, lost or destroyed, it may be renewed on payment of twenty-five (25c.) cents, or such less sum as the Directors may prescribe, and the person requiring the new certificate shall surrender the defaced or worn-out certificate, or give such evidence of its loss or destruction and such indemnity to the Company as the Directors think fit.

JOINT HOLDERS OF SHARES

15. Where two or more persons are registered as the holders of any share, they shall be deemed to hold the same as joint tenants with benefit of survivorship, subject to the provisions following:

(a) The Company shall not be bound to register more than three persons as the holders of any share.

(b) The joint holders of any share shall be liable severally as well as jointly in respect of all payments which ought to be made in respect of such share.

(c) On the death of any one of such joint holders the survivor or survivors shall be the only person or persons recognised by the Company as having any title to such share; but the Directors may require such evidence of death as they may deem fit.

(d) Any one of such joint holders may give effectual receipts for any dividend bonus or return of capital payable to such joint holders.

(e) Only the person whose name stands first in the Register of Members as one of the joint holders of any share shall be entitled to delivery of the certificate relating to such share or to receive notices from the Company or to attend or vote at general meetings of the Company, and any notice given to such a person shall be deemed notice to all the joint holders; but any one of such joint holders may be appointed the proxy of the person entitled to vote on behalf of the said joint

Additional
 Certificates

Renewal of
 Certificates

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Joint holders

Maximum
 number

20

Liability
 severally as
 well as joint

Survivors of
 joint holders
 only recog-
 nized

30

Receipts

Who entitled
 to certificates,
 votes, &c.

40

holders and as such proxy to attend and vote at General Meetings of the Company.

RECORD
*In the Supreme
 Court of British
 Columbia*

CALLS ON SHARES

- | | | | |
|------------------------------------|----|--|--|
| Calls | 10 | 16. The Directors may from time to time make such calls as they think fit upon the members in respect of all moneys unpaid on the shares held by them respectively and not by the conditions of allotment thereof made payable at fixed times, and each member shall pay the amount of every call so made on him to the persons and at the times and places appointed by the Directors. A call may be made payable by instalments. | Exhibit No. 4
Articles of Association
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 5, 1923
(Contd.) |
| When call deemed to be made | 20 | 17. A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed and fourteen (14) days' notice of any call shall be given specifying the time and place of payment and to whom such call shall be paid. | |
| Interest on calls in arrear | 20 | 18. If the call payable in respect of any share or any instalment be not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at such rate not exceeding ten per centum (10%) per annum as the Directors shall determine from the day appointed for the payment of such call or instalment to the time of actual payment; but the Directors may if they shall think fit remit the payment of such interest or any part thereof. | |
| Calls by instalments | 30 | 19. If by the terms of the issue of any shares or otherwise any amount is made payable at any fixed time or by instalments at any fixed times every such amount or instalments shall be payable as if it were a call duly made by the Directors and of which due notice had been given; and all the provisions hereof with respect to the payment of calls and interest thereon or to the forfeiture of shares for non-payment of calls shall apply to every such amount or instalment and the shares in respect of which it is payable. | |
| Instalments to be treated as calls | 40 | 20. The Directors may if they think fit receive from any member willing to advance the same all or any part of the moneys uncalled or unpaid upon any shares held by him; and upon the money so paid in advance the Directors may (until the same would but for such advance become presently payable) pay interest at such rate (not exceeding without the sanction | |
| Payment in advance of calls | 40 | | |

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of the Company in general meeting eight per cent) as may be agreed upon between the member paying the sum in advance and the Directors.

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TRANSFER OF SHARES

21. The instrument of transfer of any share in the Company shall be in writing and shall be executed both by the Transferor and Transferee and duly attested and the Transferor shall be deemed to remain the holder of such share until the name of the Transferee is entered in the Register in respect thereof.

Execution of
instrument of
transfer, &c.

10

22. Shares in the Company shall be transferred in the following form or in any usual or common form of which the Directors shall approve:

Form of
instrument or
transfer

Iof
in consideration of the sum of.....
paid to me by.....
of.....(hereinafter called "the
said transferee") do hereby transfer to the said
transferee the share (or shares) numbered.....
.....in the undertaking called "Vancouver
Malt & Sake Brewing Company, Limited," to hold
unto the said transferee his executors, adminstra-
tors and assigns subject to the several conditions
on which I held the same at the time of the execu-
tion hereof; and I, the said transferee do hereby
agree to take the said share (or shares) subject to
the conditions aforesaid.

20

As Witness our hands the.....day of
....., 19.....
Signed by the above-named
transferor in the presence of

30

.....
Transferor.

Signed by the above-named
transferee in the presence of

.....
Transferee.

23. The Directors may at any time in their absolute and uncontrolled discretion and without assigning any reason decline to register any proposed transfer of shares. The Directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The Directors may decline to recognise

Refusal to
register trans-
fer and clos-
ing of Trans-
fer books 40

any instrument of transfer unless (a) a fee not exceeding fifty cents is paid to the Company in respect thereof, and (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.

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TRANSMISSION OF SHARES

10) Persons
recognized on
death of
shareholder

24. On the death of any member (not being one of the several joint holders of a share) the executors or administrators of such deceased member shall be the only persons recognized by the Company as having any title to such share.

21) Representa-
tive share-
holder to be
registered or
nominate
another per-
son

25. Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member (herein referred to as a person entitled by transmission) shall within three months of becoming so entitled produce to the Company such evidence as may be reasonably required by the Directors to prove his title including in case of death probate or letters of administration and declare in writing his election either to be himself registered as a member in respect of the share or instead of being registered himself to make such transfer as the deceased or bankrupt person could have made.

21)

30) Registration
of representa-
tive share-
holder or his
nominee

26. If any person entitled to any shares by transmission shall give the required proof of his title and shall declare his election to be himself registered as a member of the Company the Directors may forthwith place his name upon the Register in respect of the said shares; and if such person as aforesaid shall give the required proof and nominate some other person to be registered the person so nominating and the person so nominated shall respectively as transferor and transferee execute an instrument of transfer and the name of the transferee may forthwith be placed upon the Register in respect of the said shares.

30)

40) Penalties for
not register-
ing

27. Until any person becoming entitled to shares by transmission shall have complied with the terms of the preceding Articles the Company may retain any dividend or bonus declared upon such shares and shall not be bound to recognise the title of the person claiming under such transmission; and if such person so becoming entitled to any partly paid shares shall not have complied with the terms of the said Articles for a

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period of three months from the time of so becoming entitled, the Directors may cause to be served on him a notice requiring him to comply with the said terms within a period of not being less than one month from the date of such notice and stating that if he does not comply with the requirements of the said notice the shares in respect of which such notice is given will be liable to forfeiture; and if the person on whom such notice has been served shall not comply with the requirements thereof within the time named therein the shares in respect of which the said notice was given shall be liable to be forfeited by a resolution of the Directors passed at any time before the requirements of the said notice shall have been complied with.

10

28. The guardians of an infant member and the committee of a lunatic member may upon producing to the Directors such evidence of their position as may be reasonably required be placed upon the Register in respect of the shares held by such infant or lunatic member as the case may be.

Guardians
 and commit-
 tee may be
 placed on
 Register

20

29. The Directors shall have the same right to refuse to register the person entitled to any shares by reason of the death, bankruptcy, insolvency, voluntary liquidation, lunacy or infancy of any member or his nominee as if he were the transferee named in an ordinary transfer presented for registration.

Directors'
 right to
 refuse regis-
 tration

FORFEITURE AND LIEN

30. If any member fail to pay any call or instalment on or before the day appointed for the payment of the same the Directors may at any time thereafter during such time as the call or instalment remains unpaid serve a notice on such member requiring him to pay the same together with any interest that may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment.

If call or
 instalment
 not paid
 notice may
 be given

30

31. The notice shall name a day (not being less than ten days from the date of the notice) and a place or places on and at which such call or instalment and such interest or expenses as aforesaid are to be paid. The notice shall also state that in the event of non-payment at or before the time and at the place appointed the shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

Form of
 notice

40

32. If the requisitions of any notice as aforesaid are not complied with any shares in respect of which such notice has been given may at any time thereafter

If notice not
 complied
 with shares
 may be for-
 feited

before payment of all calls or instalments interest and expenses due in respect thereof be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.

10 Forfeited share to become property of company

33. Any shares so forfeited shall be deemed to be the property of the Company and the Directors may sell re-allot or otherwise dispose of the same in such manner as they think fit.

Power to annual forfeiture

34. The Directors may at any time before any shares so forfeited shall have been sold re-allotted or otherwise disposed of annul the forfeiture thereof upon such condition as they think fit.

20 Arrears to be paid notwithstanding forfeiture

35. Any member whose shares have been forfeited shall notwithstanding be liable to pay and shall forthwith pay to the Company all calls instalments interest and expenses owing upon or in respect of such shares at the time of forfeiture together with interest thereon from the time of forfeiture until payment at the rate of ten per cent. per annum and the Directors shall enforce the payment of such moneys or any part thereof if they think fit but shall not be under any obligation so to do.

30 Lien on shares

36. The Company shall have a first and paramount lien upon all the shares registered in the name of each member (whether solely or jointly with others) and upon the proceeds of sale thereof for his debts liabilities and engagements solely or jointly with any other person to or with the Company whether the period for the payment fulfilment or discharge thereof shall have actually arrived or not and no equitable interest in any share shall be created except upon the footing and condition that clause 11 hereof is to have full effect. Such lien shall extend to all dividends from time to time declared in respect of such shares. Unless otherwise agreed the registration of a transfer of shares shall operate as a waiver of the Company's lien (if any) upon such shares.

40 As to enforcing lien by sale

37. For the purpose of enforcing such lien the Directors may sell the shares subject thereto in such manner as they think fit but no sales shall be made until such period as aforesaid shall have arrived and until notice in writing of the intention to sell shall have been served on such member his executors or administrators

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and default shall have been made by him or them in the payment fulfilment or discharge of such debts liabilities or engagements for seven days after such notice.

38. The net proceeds of any such sale shall be applied in or towards satisfaction of the debts liabilities or engagements and the residue (if any) paid to such member his executors administrators or assigns.

39. Upon any sale after forfeiture or for enforcing a lien in purported exercise of the powers hereinbefore given the Directors may cause the purchaser's name to be entered in the Register in respect of the shares sold and the purchaser shall not be bound to see to the regularity of the proceedings or to application of the purchase money and after his name has been entered in the Register in respect of such shares the validity of the sale shall not be impeached by any person and the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

INCREASE AND REDUCTION OF CAPITAL

40. The Company may from time to time increase the capital by the creation of new shares of such amount as may be deemed expedient.

41. The new shares shall be issued upon such terms and conditions and with such rights and privileges annexed thereto as the Directors shall determine and in particular such shares may be issued with a preferential or qualified right to dividends and in the distribution of assets of the Company and with a special or without any right of voting.

42. The Company may before the issue of any new shares determine that the same or any of them shall be offered in the first instance to all the then members in proportion to the amount of the capital held by them or make any other provisions as to the issue and allotment of the new shares but in default of any such determination or so far as the same shall not extend the new shares may be dealt with as if they formed part of the shares in the original capital.

43. Except so far as otherwise provided by the conditions of issue or by these presents any capital raised by the creation of new shares shall be considered part of the original capital and shall be subject to the provisions herein contained with reference to the payment of calls and instalments transfer and transmission forfeiture lien surrender voting and otherwise.

Application
 of proceeds
 of sale

Validity of
 sale

10

Power to
 increase
 capital

20

On what
 conditions
 may new
 shares be
 issued

30

When to be
 offered to
 existing
 members

How far new
 shares to rank
 with shares
 in original
 capital

40

Reduction of
capital, &c.

44. The Company may from time to time by special resolution reduce its capital by paying off capital or cancelling capital which has been lost or is unrepresented by available assets or reducing the liability on the shares or otherwise as may seem expedient and capital may be paid off upon the footing that it may be called up again or otherwise and the Company may also by special resolution subdivide or by ordinary resolution consolidate its shares or any of them.

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10 Subdivision
into preferred
and ordinary

45. The special resolution whereby any share is subdivided may determine that as between the holders of the shares resulting from such subdivision one or more of such shares shall have some preference or special advantage as to dividend capital voting or otherwise over or as compared with the others or other.

MODIFYING RIGHTS

Power to
modify rights

20

46. If at any time the capital by reason of the issue of preference shares or otherwise is divided into different classes of shares all or any of the rights and privileges attached to each class may be modified by agreement between the Company and any person purporting to contract on behalf of that class provided such agreement is (a) ratified in writing by the holders of at least three-fourths of the nominal amount of the issued shares of that class or is (b) confirmed by an extraordinary resolution passed at a separate general meeting of the holders of shares of that class and all the provisions hereinafter contained as to general meetings shall mutatis mutandis apply to every such meeting except that the quorum thereof shall be members holding or representing by proxy three-fourths of the nominal amount of the issued shares of that class. This clause is not by implication to derogate from any power of modification or otherwise which the Company would have if the clause were omitted.

30

BORROWING POWERS

Power to
borrow

40

47. The Directors may from time to time at their discretion raise or borrow or secure the payment of any sum or sums of money for the purposes of the Company.

Conditions
on which
money may
be borrowed

48. The Directors may raise or secure the repayment of such moneys in such manner and upon such terms and conditions in all respects as they think fit and in particular by the issue of debentures or debenture

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stock of the Company charged upon all or any part of the property of the Company (both present and future) including its uncalled capital for the time being.

49. Any debentures debenture stock bonds or other securities may be issued at a discount premium or otherwise and with any special privileges as to participation in profits redemption surrender drawings allotment of shares attending and voting at general meetings of the Company appointment of Directors and otherwise.

Issue at discount, &c. or with special privileges

10

GENERAL MEETINGS

50. Annual general meetings shall be held in each year at such time and place as the Directors may determine.

Annual general meetings

51. The general meetings referred to in the last preceding clause shall be called ordinary meetings. All other meetings of the Company shall be called extraordinary meetings.

Distinction between ordinary and extraordinary meetings

52. The Directors may whenever they think fit convene an extraordinary general meeting of the Company.

When extraordinary meeting to be called

20

53. Seven clear days' notice to the members specifying the place day and hour of meeting and in case of special business the general nature of such business shall be given either by advertisement or by notice sent by post or otherwise served as herein provided. With the consent in writing of all the members for the time being a general meeting may be convened on a shorter notice than seven (7) days and in any manner they think fit. Whenever it is intended to pass a special resolution the two meetings may be convened by one and the same notice and it shall be no objection that the notice only convenes the second meeting contingently on the resolution being passed by the requisite majority at the first meeting.

Notice of meeting

30

54. The accidental omission to give any such notice to any of the members shall not invalidate any resolution passed at any such meeting.

PROCEEDINGS AT GENERAL MEETINGS

55. The business of an ordinary meeting other than the first one shall be to receive and consider the profit and loss account and the balance sheet the reports of the Directors and of the auditors to elect Directors and other officers in the place of those retiring to declare dividends and to transact any other business

Business of ordinary meeting

40

which under these presents ought to be transacted at an ordinary meeting. All other business transacted at an ordinary meeting and all business transacted at an extraordinary meeting shall be deemed special.

Quorum

56. Any two persons present at a general meeting who are entitled to vote either as shareholders in the Company or as holders of proxies entitling them to represent shareholders shall be a quorum for a general meeting, and no business shall be transacted unless the quorum requisite be present at the time when the meeting proceeds to business.

10

Chairman

57. The chairman of the Directors shall be entitled to take the chair at every general meeting or if there be no chairman or if at any meeting he shall not be present within fifteen minutes after the time appointed for holding such meeting the persons present at the meeting and entitled to vote shall choose another Director as chairman and if no Director be present or if all the Directors present decline to take the chair then the meeting shall choose one of the persons present and entitled to vote to be chairman.

20

When if quorum not present meeting to be dissolved and when to be adjourned

58. If within half an hour from the time appointed for the meeting a quorum is not present the meeting if convened upon the requisition of members shall be dissolved but in any other case it shall stand adjourned to the same day in the next week at the same time and place and if at such adjourned meeting a quorum is not present any two persons present who are entitled to vote shall be a quorum and may transact the business for which the meeting is called.

30

How questions to be decided at meetings

59. Every question submitted to a meeting shall be decided in the first instance by a show of hands and in the case of an equality of votes the chairman shall both on a show of hands and at the poll have a casting vote in addition to the vote or votes to which he may be entitled as a member.

Casting vote

40 What is to be evidence of the passing of a resolution where poll not demanded

60. At any general meeting unless a poll is demanded by the chairman or by at least one member present either personally or by proxy and entitled to vote a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

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61. If a poll is demanded as aforesaid it shall be taken in such manner and at such time and place as the chairman of the meeting directs and either at once or after an interval or adjournment or otherwise and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Poll

62. The chairman of a general meeting may with the consent of the meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Power to adjourn general meeting

10

63. The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

Business may proceed notwithstanding demand of poll

64. Any poll duly demanded on the election of a chairman of a meeting or on any question of adjournment shall be taken at the meeting without adjournment.

In what cases poll taken without adjournment

20

VOTES OF MEMBERS

65. On a show of hands every member present in person shall have one vote and upon a poll every member present in person or by proxy shall have one vote for every share held by him. Where a corporation being a member is present by a proxy who is not a member such proxy shall be entitled to vote for such corporation on a show of hands.

Votes of members

VOTES UNDER TRANSMISSION CLAUSE AND VOTES OF JOINT HOLDERS

30

66. Any person entitled under the transmission clause to transfer any share may vote at any general meeting in respect thereof in the same manner as if he were the registered holder of such shares provided that forty-eight hours before the time of holding the meeting at which he proposes to vote he shall satisfy the Directors of his right to transfer such shares unless the Directors shall have previously admitted his right to vote at such meeting in respect thereof.

Votes in respect of shares of deceased and bankrupt members

67. Where there are joint registered holders of any shares any one of such persons may vote at any meeting either personally or by proxy in respect of such shares as if he were solely entitled thereto and if more than one of such joint holders be present at any meeting personally or by proxy that one of the said

Joint holders 40

persons whose name stands first in the register in respect of such shares shall alone be entitled to vote in respect thereof. Several executors or administrators of a deceased member in whose name any shares stand shall for the purposes of this clause be deemed joint holders.

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VOTING BY PROXY

Proxies per-
mitted
10

68. Votes may be given either personally or by proxy. The instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney or if such appointer is a corporation under its common seal or the hands of its attorney. A person appointed a proxy need not be a member of the Company entitled to vote. A Corporation being a member of the Company entitled to vote may appoint as its proxy any of its officials or any other person whether a member of the Company or not.

Instrument to
be deposited
at office or
delivered to
chairman
20

69. The instrument appointing a proxy and the power of attorney (if any) under which it is signed may be deposited at the office of the Company not less than forty-eight hours before the time for holding the meeting or adjourned meeting (as the case may be) at which the person named in such instrument proposes to vote or may be delivered to the chairman of such meeting at such meeting.

Power to give
irrevocable
proxies
30

70. A member or other person entitled to vote may appoint a proxy to vote for and on behalf of the appointer in respect of any shares and may by the instrument declare the appointment irrevocable or irrevocable for any specified period and such declaration shall be effective save only that if the appointer by transfer death or otherwise loses his right to vote in respect of the shares specified therein the appointment shall thereupon become null and where a proxy is irrevocably appointed as aforesaid to vote for and on behalf of the appointer in respect of shares specified in the instrument of appointment the proxy shall whilst the appointment remains irrevocable be exclusively entitled to vote in respect of such shares even though the appointer be present and whether the appointer does or does not vote on the question in respect of any other shares.

40

Any such appointment as aforesaid whether revocable or irrevocable may be made in favour of one person or of several persons in the alternative as in the form set forth in clause 71 hereof.

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71. Every instrument of proxy whether for a specified meeting or otherwise shall as nearly as circumstances will admit be in the form or to the effect following:

I of
 being a member
 of Vancouver Malt & Sake Brewing Company, Limited,
 hereby appoint of
 (or failing him of)
 (or failing him of)
 as my proxy to vote for me and on my behalf at any
 ordinary or extraordinary meeting of the Company
 to be held during the year and at any adjourn-
 ment thereof.

As witness my hand this day of 19.....

Witness:

.....

72. No member shall be entitled to be present or to vote on any question either personally or by proxy or as proxy for another member at any general meeting or upon a poll or be reckoned in a quorum whilst any call or other sum shall be due and payable to the Company in respect of any of the shares of such member.

Form of
 proxy

10

No member
 entitled to
 vote, &c.
 while call due
 to Company 20

DIRECTORS

73. The number of Directors shall not be less than two nor more than nine.

74. Messrs. Koichiro Sanmiya and Frank A. Jackson shall be the first Directors of the Company.

75. The qualification of every Director shall be the holding in his own right and as the holder of at least one share in the Company. A first Director may act before acquiring his qualification but shall in any case acquire his qualification within one month of being appointed a Director and if such qualification shall not have been otherwise acquired within the time aforesaid he shall be deemed to have agreed with the Company to take from the Company one share in the Company and his name shall be entered in the Register of Members accordingly.

Number of
 Directors

First
 Directors

Qualification
 of Director 30

76. The future remuneration of the Directors and their remuneration for services performed previously to the first general meeting shall be determined by the Company in any general meeting.

Remuneration
 of the
 Directors 40

Business of
Company
shall be
managed by
Directors

Directors
may act not-
withstanding
vacancy

10

77. The business of the Company shall be managed by the Directors who may pay all expenses incurred in getting up and registering the Company and may exercise all such powers of the Company as are not by the said statute or by these Articles required to be exercised by the Company in general meeting.

78. The continuing Directors may act notwithstanding any vacancy in their body.

79. The office of Director shall ipso facto be vacated:

(a) If he become bankrupt or suspends payment or compounds with his creditors,

(b) If he be found lunatic or becomes of unsound mind.

(c) If he absents himself from the meetings of the Directors during a period of three months without special leave of absence from the Directors.

20

(d) If by notice in writing to the Company he resigns his office.

(e) If he is requested in writing by all his Co-Directors to resign.

Director may
hold office
in Company
except that
of auditor

80. A Director may hold any other office or place of profit in the Company in conjunction with his directorship except that of auditor and may be appointed thereto upon such terms as to remuneration tenure of office and otherwise as the Directors may arrange.

30

Directors
may contract
with Com-
pany

81. No Director shall be disqualified by his office from contracting with the Company either as vendor purchaser or otherwise nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relations thereby established but it is declared that the nature of his interest must be disclosed by him at the meeting of the Directors at which the contract or arrangement is determined on if his interest then exists or in any other case at the first meeting of the Directors after the acquisition of his interest. A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions

40

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with that firm or company shall be a sufficient disclosure under this clause as regards such director and the said transactions and after such general notice it shall not be necessary for such Director to give a special notice of any particular transaction with that firm or Company.

ELECTION OF DIRECTORS

82. At the first ordinary meeting after the registration of the Company and at the ordinary meeting each succeeding year all the Directors shall retire from office.

Retirement
 of Directors 10

83. Every retiring Director shall be eligible for re-election.

Retiring
 Director elig-
 ible for re-
 election
 Meeting to
 fill up vacan-
 cies

84. The Company at any general meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons to be Directors and without notice in that behalf may fill up any other vacancies.

85. If at any general meeting at which an election of Directors ought to take place the place of any retiring Director is not filled up he shall continue in office until the ordinary meeting in the next year and so on from year to year until his place is filled up.

Retiring
 Directors to
 remain in
 office till
 successors
 appointed 20

86. The Company may by extraordinary resolution remove any Director before the expiration of his period of office and may by ordinary resolution appoint another qualified person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Power to re-
 move Direc-
 tor by extra-
 ordinary reso-
 lution 30

MANAGING DIRECTOR

87. The Directors may from time to time appoint one or more of their body to be Managing Director or Managing Directors of the Company either for a fixed term or without any limitation as to the period for which he or they is or are to hold such office and may from time to time remove or dismiss him or them from office and appoint another or others in his or their place or places.

Power to
 appoint
 Managing
 Director

88. A Managing Director shall not while he continues to hold that office be subject to retirement by rotation and he shall not be taken into account in determining the rotation of retirement of Directors but he shall subject to the provisions of any contract between him and the Company be subject to the same

What provi-
 sions he will
 be subject to 40

provisions as to resignation and removal as the other Directors of the Company and if he cease to hold the office of Director from any cause he shall ipso facto and immediately cease to be a Managing Director.

Remunera-
tion of Man-
aging Direc-
tor

89. The remuneration of a Managing Director shall from time to time be fixed by the Directors and may be by way of salary or commission or participation in profits or by any or all of those modes.

10 Powers and
duties of
Managing
Director

90. The Directors may from time to time entrust to and confer upon a Managing Director for the time being such of the powers exercisable under these presents by the Directors as they think fit and may confer such powers for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they think expedient; and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf; and may from time to time revoke withdraw alter or vary all or any of such powers.

20

PROCEEDINGS OF DIRECTORS

Meetings of
Directors and
quorum

91. The Directors may meet together for the dispatch of business adjourn and otherwise regulate their business as they think fit and may determine the quorum necessary for the transaction of business. Until otherwise determined two Directors shall form a quorum. A Director interested is to be counted in a quorum notwithstanding his interest. A Director may at any time and the Secretary upon the request of a Director shall convene a meeting of the Directors. It shall not be necessary to give to any Director whilst out of British Columbia notice of a meeting of Directors but where such Director is represented by a proxy appointed under clause 92 hereof due notice of such meeting shall be given to such proxy either personally or by sending the same through the mail addressed to him at his last known place of address in the Province of British Columbia.

30

40 Director may
appoint
proxy

92. A Director may appoint any person to act as his proxy at meetings of Directors, and to sign resolutions under clause 99 hereof and such appointment must be made in writing under the hand of the appointer and may at any time be revoked in like manner and may be general or for a specified period or for specified meetings or for specified resolutions and notice of every such appointment or revocation

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 4
Articles of
Association
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 5, 1923
(Contd.)

RECORD
*In the Supreme
 Court of British
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 Exhibit No. 4
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must be given to the Company and the appointee need not be a Director or member of the Company but he must furnish the Company with his address in British Columbia. If the appointee be another Director of the Company he shall have the right to vote on such proxy as well as in his individual quality as Director and in determining if a quorum of Directors is present at any such meetings every Director represented by proxy shall be deemed to be personally present.

93. Questions arising at any meeting shall be decided by a majority of votes.

How ques-
 tions to be
 decided 10
 Chairman

94. The Directors may elect a chairman of their meetings and determine the period for which he is to hold office but if no such chairman be elected or if at any meeting the chairman is not present at the time appointed for holding the same the Directors present shall choose some one of their number to be chairman of such meeting.

95. A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all or any of the authorities powers and discretions by or under regulations of the Company for the time being vested in or exercisable by the Directors generally.

Powers of
 quorum 20

96. The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed on it by the Directors.

Powers to
 appoint com-
 mittees and
 delegate

97. The meetings and proceedings of any such committee consisting of two or more members shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors so far as the same are applicable thereto and are not superseded by any regulations made by the Directors under the last preceding clause.

Proceedings
 of Committee 30

98. All acts done at any meeting of the Directors or of a committee of directors or by any person acting as a Director shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Directors or persons acting as aforesaid or that they or any of them were disqualified be as valid as if every such person had been duly appointed and was qualified to be a Director.

When acts of
 Directors or
 committee
 valid not-
 withstanding
 defective
 appointment,
 &c. 40

Resolution without board meeting valid	99. A resolution in writing signed by all the Directors then resident in British Columbia shall be as valid and affectual as if it had been passed at a meeting of the Directors duly called and constituted.	RECORD <u> </u> <i>In the Supreme Court of British Columbia</i>
Remunera- tion for extra service	100. If any Director being willing shall be called upon to perform extra services or to make any special exertions in going or residing abroad or otherwise for any of the purposes of the Company the Company shall remunerate such Director either by a fixed sum or by a percentage of profits or otherwise as may be determined by the Directors and such remuneration may be either in addition to or in substitution for his share in the remuneration above provided.	Exhibit No. 4 Articles of Association Vancouver Malt & Sake Brewing Co., Ltd. July 5, 1923 (Contd.)
10		
May appoint assistant Directors	101. The Directors from time to time and at any time may appoint any other person or persons to be assistant Directors of the Company but shall define limit and restrict their powers authorities and discretions and fix and determine their remuneration duties immunities and qualifications and may remove any director so appointed unless otherwise determined by the Directors. It shall not be necessary for an assistant Director to hold any share qualification.	
20		
Casual vacancies	102. Any casual vacancy occurring in the Board of Directors may be filled up by the Directors but the person so chosen shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.	
	MINUTES	
30	103. The Directors shall cause minutes to be duly entered in the books for the purpose: (a) Of all appointments of officers. (b) Of the names of the Directors present at each meeting of the Directors and of any committee of Directors. (c) Of all orders made by the Directors and committee of Directors.	
40	(d) Of all resolutions and proceedings of general meetings and of meetings of the Directors and committees. And any such minutes of any meeting of the Directors or of any committee or of the Company if purporting to be signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.	

RECORD

*In the Supreme
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POWERS OF DIRECTORS

104. The management of the business of the Company shall be vested in the Directors who in addition to the powers and authorities by these presents or otherwise expressly conferred upon them may exercise all such powers and do all such acts and things as may be exercised or done by the Company and are not hereby or by statute expressly directed or required to be exercised or done by the Company in general meeting but subject nevertheless to the provisions of the statutes in that behalf.

Powers of
Directors

10

105. Without prejudice to the general powers conferred by the last preceding clause and so as not in any way to limit or restrict those powers and without prejudice to the other powers conferred by these presents it is hereby expressly declared that the Directors shall have the following powers, that is to say:

Specific
powers given
to Directors

(a) Power to pay the costs charges and expenses preliminary and incidental to the promotion formation establishment and registration of the Company.

To pay pre-
liminary
expense

20

(b) Power to remunerate any person or persons for any services of whatsoever nature rendered in connection with the incorporation of the Company and whether such person or persons shall be vendors to or promoters of the Company and whether such services shall be rendered preliminary to the incorporation of the Company or otherwise and to pay such remuneration in cash or by the issue of fully paid shares or by the issue of debentures charged upon the Company's assets or undertaking as in the sole discretion of the Directors shall seem expedient.

Power to
remunerate
incorpora-
tors

30

(c) To purchase or otherwise acquire for the Company any property rights or privileges which the Company is authorised to acquire at or for such price or consideration and generally on such terms and conditions as they think fit.

To acquire
property

(d) At their discretion to pay for any property rights or privileges acquired by or services rendered to the Company either wholly or partially in cash or in shares bonds debentures or other securities of the Company and any such shares may be issued either as fully paid up or with such amount credited as paid up thereon as may be agreed upon; and any such bonds debentures or

To pay for
property in
debentures,
&c.

40

- other securities may be either specifically charged upon all or any part of the property of the Company and its uncalled capital or not so charged.
- (e) To secure the fulfilment of any contracts or engagements entered into by the Company by mortgage or charge of all or any of the property of the Company and its unpaid capital for the time being or in such other manner as they may think fit.
- (f) To appoint and at their discretion remove or suspend such managers secretaries officer clerks agents and servants for permanent temporary or special services as they may from time to time think fit and to determine their duties and powers and fix their salaries or emoluments and to require security in such instances and to such amount as they think fit.
- (g) To accept from any member on such terms and conditions as shall be agreed a surrender of his shares or stock or any part thereof.
- (h) To appoint any person or persons (whether incorporated or not incorporated) to accept and hold in trust for the Company any property belonging to the Company or in which it is interested or for any other purposes and to execute and do all such deeds and things as may be requisite in relation to any such trust and to provide for the remuneration of such trustee or trustees.
- (i) To institute conduct defend compound or abandon any legal proceedings by or against the Company or its officers or otherwise concerning the affairs of the Company and also to compound and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the Company.
- (j) To refer any claims or demands by or against the Company to arbitration and observe and perform the awards.
- (k) To make and give receipts releases and other discharges for money payable to the Company and for the claims and demands of the Company.
- (l) To determine who shall be entitled to sign on the Company's behalf bills notes receipts acceptances indorsements cheques releases contracts and documents on behalf of the Company.
- To secure contracts by mortgage
- 10 To appoint officers, &c.
- To accept surrender of shares
- 20 To appoint Trustees
- 30 To bring and defend actions, &c.
- To refer to arbitration
- 40 To give receipts
- To authorise acceptance, etc.
- RECORD
In the Supreme Court of British Columbia
 Exhibit No. 4
 Articles of Association
 Vancouver Malt & Sake Brewing Co., Ltd.
 July 5, 1923
 (Contd.)

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(m) From time to time to provide for the management of the affairs of the Company abroad in such manner as they think fit and in particular to appoint any persons to be the attorneys or agents of the Company with such powers (including power to sub-delegate) and upon such terms as may be thought fit.

To appoint
attorneys

(n) To invest and deal with any of the moneys of the Company not immediately required for the purposes thereof upon such securities (not being shares in this Company) and in such manner as they may think fit and from time to time to vary or realise such investments.

To invest
moneys

10

(o) To execute in the name and on behalf of the Company in favour of any Director or other person who may incur or be about to incur any personal liability for the benefit of the Company such mortgages of the Company's property (present and future) as they think fit and any such mortgage may contain a power of sale and such other powers covenants and provisions as shall be agreed on.

To give
security by
way of in-
demnity

20

(p) To give any officer or other person employed by the Company a commission on the profits of any particular business or transaction or a share in the general profits of the Company and such commissions or share of profits shall be treated as part of the working expenses of the Company.

To give per-
centages

(q) Before recommending any dividend to set aside out of the profits of the Company such sums as they think proper as a reserve fund to meet contingencies or for special dividends or for equalizing dividends or for repairing improving and maintaining any of the property of the Company and for other purposes as the Directors shall in their absolute discretion think conducive to the interests of the Company and to invest the several sums so set aside upon such investments (other than shares of the Company) as they may think fit and from time to time deal with and vary such investments and dispose of all or any part thereof for the benefit of the Company and to divide the reserve fund into such special funds as they think fit with full power to employ the assets constituting the reserve fund or any part thereof in the

To establish
Reserve
Fund

30

40

business of the Company and that without being bound to keep the same separate from the other assets.

To make and vary contracts

(r) To enter into all such negotiations and contracts and rescind and vary all such contracts and execute and do all such acts deeds and things in the matter and on behalf of the Company as they may consider expedient for or in relation to any of the matters aforesaid or otherwise for the purposes of the Company.

10

THE SEAL

Seal

106. The Directors shall forthwith procure a common seal to be made for the Company and shall provide for the safe custody thereof. The seal shall not be affixed to any instrument except by the express authority of a resolution of the Board of Directors and in the presence of at least one Director and of the Secretary or such other person as the Directors may appoint for the purpose and that one Director and Secretary or other person as aforesaid shall sign every instrument to which the seal of the Company is so affixed in their presence.

20

DIVIDEND

Dividend

107. Subject as aforesaid the profits of the Company shall be divisible among the members in proportion to the capital paid up on the shares held by them respectively.

Capital paid up in advance

30

108. Where capital is paid up on any shares in advance of calls upon the footing that the same shall carry interest such capital shall not whilst carrying interest confer a right to participate in profits.

Declaration of Dividends

109. The Company in general meeting may declare a dividend to be paid to the members according to their rights and interests in the profits.

Restriction of amount of dividend

110. No larger dividend shall be declared than is recommended by the Directors but the Company in general meeting may declare a smaller dividend.

Dividend out of profits only and not carry interest

40

111. No dividend shall be payable except out of the profits of the Company and no dividend shall carry interest as against the Company.

What to be deemed profits

112. The declaration of the Directors as to the amount of the profits of the Company shall be conclusive.

Interim dividends

113. The Directors may from time to time pay to the members on account of the next forthcoming

RECORD

In the Supreme Court of British Columbia

Exhibit No. 4
Articles of Association
Vancouver
Malt & Sake
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(Contd.)

<p>RECORD</p> <p><i>In the Supreme Court of British Columbia</i></p> <p>Exhibit No. 4</p> <p>Articles of Association</p> <p>Vancouver</p> <p>Malt & Sake Brewing Co., Ltd.</p> <p>July 5, 1923</p> <p>(Contd.)</p>	<p>dividend such interim dividends as in their judgment the position of the Company justifies.</p> <p>114. The Directors may retain any dividends on which the Company has a lien and may apply the same in or towards satisfaction of the debts liabilities or engagements in respect of which the lien exists.</p> <p>115. The Directors may retain the dividends payable upon shares in respect of which any person is under the Transmission Clause entitled to become a member or which any person under that Clause is entitled to transfer until such person shall become a member in respect of such shares or shall duly transfer the same.</p> <p>116. Any general meeting declaring a dividend may direct payment of such dividend wholly or in part by the distribution of specific assets, and in particular of paid up shares, debentures or debenture stock of the Company or paid up shares debentures or debenture stock of any other company or in any one or more of such ways and the Directors shall give effect to such resolution; and where any difficulty arises in regard to the distribution they may settle the same as they think expedient and in particular may issue fractional certificates and may fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties and may vest any such specific assets in trustees upon such trusts for the persons entitled to the dividend as may seem expedient to the Directors. Where requisite a proper contract shall be filed in accordance with Section 125 of the Companies Act 1921 and the Directors may appoint any person to sign such contract on behalf of the persons entitled to the dividend and such appointment shall be effective.</p> <p>117. In case several persons are registered as the joint holders of any share any one of such persons may give effectual receipts for all dividends and payments on account of dividends in respect of such share.</p> <p>118. A transfer of shares shall not pass the right to any dividend declared thereon before the registration of the transfer.</p> <p>119. Notice of the declaration of any dividend whether interim or otherwise shall be given to the holders of registered shares in manner hereinafter provided.</p>	<p>Debts may be reduced</p> <p>Retention in certain cases</p> <p>10</p> <p>Dividend in specie</p> <p>20</p> <p>30</p> <p>Dividend to joint holders</p> <p>Effect of transfer</p> <p>40</p> <p>Notice of dividend</p>
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Payment by
post

120. Unless otherwise directed any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled or in case of joint holders to that one of them first named in the register in respect of the joint holding. Every such cheque shall be made payable to the order of the person to whom it is sent.

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10 Accounts to
be kept

121. The Directors shall cause true accounts to be kept of the sums of money received and expended by the Company and the matters in respect of which such receipt and expenditure takes place and of the assets credits and liabilities of the Company. The books of accounts shall be kept at the registered office of the Company or at such other place or places as the Directors may think fit.

20 Inspection by
members

122. The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of the members and no member shall have any right of inspecting any account or book of account of the Company save as conferred by statute or authorised by the Directors.

30 Annual
account and
balance sheet

123. At the ordinary meeting in every year the Directors shall lay before the Company a profit and loss account and a balance sheet containing a summary of the property and liabilities of the Company made up to a date not more than four months before the meeting from the time when the last preceding account and balance sheet were made or in the case of the first account and balance sheet from the incorporation of the Company.

124. Every such account and balance sheet shall conform to the provisions of Section 113 of the Companies Act 1921.

AUDIT

40 Accounts to
be audited
annually

125. Once at least in every year the accounts of the Company shall be examined and the correctness of the balance sheet ascertained by one or more auditor or auditors.

Companies
Act to apply

126. The provisions of the Companies Act 1921 as to auditors shall apply.

Auditor re-
eligible

127. Any auditor shall be re-eligible on his quitting office.

RECORD
*In the Supreme
 Court of British
 Columbia*

Exhibit No. 4
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 Association
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 July 5, 1923
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128. Every auditor shall be supplied with a copy of the balance sheet and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

Rights and
 duties of
 auditor

129. Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may at the expense of the Company employ accountants or other persons to assist him in investigating such accounts and he may in relation to such accounts examine the Directors or any other officer of the Company.

10

NOTICES

130. A notice may be served by the Company upon any member either personally or by sending it through the post in a prepaid letter envelope or wrapper addressed to such member at his registered place of address.

How notices
 to be served
 on members

131. As regards those members who have no registered place of address a notice posted up in the office of the Company shall be deemed to be well served on them at the expiration of seven days after it is so posted up.

Notices
 where no
 address

20

132. Any notice required to be given by the Company to the members or any of them and not expressly provided for by these presents shall be sufficiently given if given by advertisement in the British Columbia Gazette.

When notice
 may be given
 by advertise-
 ment

133. All notices shall with respect to any registered shares to which persons are jointly entitled be given to whichever of such persons is named first in the Register and notice so given shall be sufficient notice to all the holders of such shares.

Notice to
 joint
 holders

30

134. Any notice sent by post shall be deemed to have been served on the day following that on which the letter envelope or wrapper containing the same is posted and in proving such service it shall be sufficient to prove that the letter envelope or wrapper containing the notice was properly addressed and put into the postoffice.

When notice
 by post
 deemed to be
 served

40

135. Where a given number of days' notice or notice extending over any other period is required to be given the day of service shall unless it is otherwise provided be counted in such number of days or other period.

How time to
 be counted

How notice to be signed

136. The signature to any notice to be given by the Company may be written or printed.

Omission to give notice shall not invalidate resolution

137. The accidental omission to give any such notice to any of the members shall not invalidate any resolution passed at any meeting.

Distribution of assets in specie

10

WINDING UP

138. If the Company shall be wound up voluntarily the liquidators may with the sanction of an extraordinary resolution divide among the contributories in specie any part of the assets of the Company and may with the like sanction vest any part of the assets of the Company in trustees upon such trusts for the benefit of the contributories as the liquidators with the like sanction shall think fit.

20

139. If thought expedient any such division may be otherwise than in accordance with the legal rights of the contributories (except where unalterably fixed by the Memorandum of Association) and in particular any class may be given preferential or special rights or may be excluded altogether or in part; but in case any division otherwise than in accordance with the legal rights of the contributories shall be determined on any contributory who would be prejudiced thereby shall have a right to dissent and ancillary rights as if such determination were a special resolution passed pursuant to Section 228 of the Companies Act 1921.

30

140. In case any of the shares to be divided as aforesaid involve a liability to calls or otherwise any person entitled under such division to any of the said shares may within ten days after the passing of the extraordinary resolution by notice in writing direct the liquidator to sell his proportion and pay him the net proceeds and the liquidator shall if practicable act accordingly.

40

141. In the event of a winding up of the Company every member of the Company who is not for the time being in British Columbia shall be bound within fourteen days after the passing of an effective resolution to wind up the Company voluntarily or after the making of an order for the winding up of the Company to serve notice in writing on the Company appointing some householder in the City of Vancouver in the Province of British Columbia upon whom all summonses notices process orders and judgments in relation to

RECORD

In the Supreme Court of British Columbia

Exhibit No. 4
Articles of Association
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 5, 1923
(Contd.)

RECORD
*In the Supreme
 Court of British
 Columbia*

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 Association
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 Brewing Co.,
 Ltd.
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 (Contd.)

or under the winding up of the Company may be served and in default of such nomination the liquidators of the Company shall be at liberty on behalf of such member to appoint some such person and service upon any such appointee whether appointed by the member or the liquidator shall be deemed to be good personal service on such member for all purposes and where the liquidators make any such appointment they shall with all convenient speed give notice thereof to such member by advertisement in the British Columbia Gazette or by a registered letter sent through the post and addressed to such member at his address as mentioned in the register of members of the Company and such notice shall be deemed to be served on the day following that on which the advertisement appears or the letter is posted.

10

INDEMNITY AND RESPONSIBILITY

142. Every Director manager secretary or other officer or servant of the Company shall be indemnified by the Company against and it shall be the duty of the Directors out of the funds of the Company to pay all costs losses and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into or act or deed done by him as such officer or servant or in any way in the discharge of his duties including travelling expenses of and incident to attending at and returning from board meetings.

Indemnity

20

143. No Director or other officer of the Company shall be liable for the acts receipts neglects or defaults of any other Director or officer or for joining in any receipt or other act or conformity or for any loss or expense happening to the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Company shall be invested or for any loss or damage arising from the bankruptcy insolvency or tortious act of any person with whom any moneys securities or effects shall be deposited or for any loss or damage occasioned by any error of judgment or oversight on his part for any other loss damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto unless the same happen through his own dishonesty.

30

40

144. Mr. Frank A. Jackson shall be the Solicitor of the Company.

RECORD
In the Supreme Court of British Columbia

NAMES, ADDRESSES & DESCRIPTIONS OF SUBSCRIBERS	Number of Shares	Exhibit No. 4 Articles of Association Vancouver Malt & Sake Brewing Co., Ltd. July 5, 1923 (Contd.)
"KOICHIRO SANMIYA," 326 Woodland Drive, Vancouver, B.C. Maltster - - - - -	(50)	
"FRANK ALEXANDER JACKSON," 921 Birks Bldg., Vancouver, B.C., Barrister-at-law - - - - -	(1)	

10 Dated at Vancouver, British Columbia, this 5th day of July, A.D. 1923.

Witness to the above signatures:

"HERBERT EDWIN DEPENCIER,"
 1264-14th Ave. West,
 Vancouver, B.C.
 Student-at-law.

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 5
Certificate of
Incorporation
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 11, 1923

EXHIBIT No. 5

CERTIFICATE OF INCORPORATION

"COMPANIES ACT 1921"

S. C. 437/32.

Supreme Court of B.C.

Vancouver Registry

Exhibit No. 5

Vancouver Breweries vs.

Vancouver Malt & Sake

Put in by "P" Date June 1st, 1932.

"F. T. H." Registrar.

10

CANADA:

PROVINCE OF BRITISH COLUMBIA

No. 7034.

I hereby certify that "Vancouver Malt & Sake Brewing Company Limited" has this day been incorporated under the "Companies Act 1921" as a Limited Company.

The capital of the Company is One hundred thousand dollars divided into one thousand shares.

The registered office of the Company is situate at Vancouver, 20 in the Province of British Columbia.

Given under my hand and seal of office at Victoria, Province of British Columbia, this Eleventh day of July, One thousand nine hundred and twenty-three.

(L.S.)

"H. G. GARRETT,"

Registrar of Joint Stock Companies.

Extract from p. 2252 B. C. Gazette, July 19, 1923.

EXHIBIT No. 32

CANADA:
PROVINCE OF BRITISH COLUMBIA

COAT OF ARMS

"COMPANIES ACT, 1921"

I HEREBY CERTIFY THAT "Vancouver Malt & Sake Brewing Company, Limited" has this day been incorporated under the "Companies Act, 1921," as a Limited Company.

10 The capital of the Company is One Hundred Thousand (\$100,000.00) Dollars, divided into One Thousand (1,000) Shares.

The registered office of the Company is situate at Vancouver in the Province of British Columbia.

GIVEN under my hand and Seal of Office at Victoria, Province of British Columbia, this eleventh day of July, one thousand nine hundred and twenty-three.

(SEAL)

Registrar of Joint Stock Companies

"H. G. GARRETT,"

Registrar of Joint Stock Companies.

20

MINUTES OF THE FIRST MEETING OF THE SHAREHOLDERS OF THE
VANCOUVER MALT & SAKE BREWING COMPANY, LIMITED

held at the office of Mr. Frank A. Jackson, the Company's solicitor, on Thursday, the 12th day of July, 1923.

Present: Mr. Koichiro Sanmiya, Mr. Frank A. Jackson.

Resolved that Mr. Frank A. Jackson be President of the Company.

Resolved that Mr. Koichiro Sanmiya be Secretary and also Treasurer of the Company and that he be authorized whenever
30 necessary to act as "Secretary-Treasurer" of the Company.

"FRANK A. JACKSON"

"K. SANMIYA"

Supreme Court of B.C.

Vancouver Registry

Exhibit No. 32

Vancouver Breweries vs.

Vancouver Malt & Saki

Put in by "D" Date June 1st, 1932.

"F. T. H," Registrar.

S. C. 437/32.

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 32
No. 7034
Minute Book
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 11, 1923

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 32
Minute Book
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 11, 1923
(Contd.)

THE MINUTES OF THE FIRST MEETING OF THE BOARD OF DIRECTORS
OF
VANCOUVER MALT & SAKE BREWING COMPANY, LIMITED

held at the office of Mr. Frank A. Jackson, the Company's solicitor, on Thursday, the twelfth day of July, nineteen hundred and twenty-three.

Present: Mr. Koichiro Sanmiya, Mr Frank A. Jackson

1. The solicitor, Mr. Frank A. Jackson, reported that the registration of the Company was effected on the 11th day of July, 1923, and he also produced the Certificate of Incorporation of that date. 10

Resolved that Mr. Koichiro Sanmiya be appointed Chairman of the Directors.

It was resolved that the banking account of the Company be opened with the Bank of Montreal, at its main office in the City of Vancouver, and that the signature of Mr. Koichiro Sanmiya as Secretary of the Company shall be sufficient authority to the Bank for the payment of all monies to permit the inspection or withdrawal of any securities and to receive and act upon any instructions in connection with the transactions of the Company with the said Bank. 20

AND it was further resolved that the form of banking resolution supplied by the said Bank be adopted by the Company and signed by the Secretary and a Director, and forwarded to the Bank, and that a copy of the said banking resolution be signed and attached to these minutes.

And it was further resolved that a seal of the Company be obtained, and that the seal of the Company be kept with Mr. Frank A. Jackson, the solicitor for the Company.

It was resolved that the Company do forthwith enter into the agreement with Koichiro Sanmiya a copy of which for the purpose of identification has been initialed by the said Frank A. Jackson, and that the shares referred to in the said agreement be forthwith allotted to Koichiro Sanmiya, and that the solicitor be instructed to prepare a proper Bill of Sale to the Company to vest the assets of the Morut Company in the Company. 30

It was further resolved that the solicitor be instructed to forthwith apply to the Attorney General of British Columbia for his consent to operate a brewery, and thereafter to obtain a licence from the Dominion Government. 40

"K. SANMIYA"

(Banking resolution dated July 12th, 1923 in common form as supplied by the Bank of Montreal duly signed attached to and forming part of these minutes).

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED**

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, on Wednesday, the 18th day of July, 1923.

Present: Mr. Koichiro Sanmiya, Mr. Frank A. Jackson.

Mr. Jackson reported that he had in his capacity as Solicitor prepared a bill of sale from Mr. Sanmiya transferring the assets of the Morut Company to the Company and that the same had been duly executed.

- 10 Mr. Jackson further reported that he had written the Attorney-General for British Columbia enclosing a copy of the memorandum of Association and requesting permission to operate a brewery.

Mr. Jackson further reported that he had attended at the Inland Revenue Office on Mr. Thorburn and had on behalf of the Company signed application in triplicate for a new maltsters license to be issued in the name of the Company and to be substituted for the licence now in the name of the Morut Company. Said application being dated the 16th instant.

"K. SANMIYA"

Chairman

"FRANK A. JACKSON"

20

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED**

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 921 Birks Building, Vancouver, British Columbia, on Monday the 21st day of January, 1924.

Present: Mr. Koichiro Sanmiya, Mr. Frank A. Jackson.

- 30 Mr. Jackson, in his capacity of Solicitor for the Company, reported that on the 23rd day of July, 1923, he received a letter from the Attorney General refusing his consent to the issuance of a brewery licence and that thereafter he consulted Mr. G. S. Wismer who stated that he thought he would be able if proper representations were made to the Attorney General to get his consent, and that it would be necessary for him to go to Victoria to have an interview with the Attorney General. Mr. Jackson thereupon paid Mr. Wismer a fee of \$50.00 for his expenses to Victoria.

- 40 Mr. Jackson further reported that on it appearing that several other unlicensed concerns were selling malt he took up with Mr Thorburn of the Inland Revenue Department the matter of

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prosecuting these people but after communications with the Department at Ottawa, and sending samples of the Malt Mr. Thorburn finally reported that he had received instructions from the Department at Ottawa not to prosecute.

Mr. Jackson further reported that during the interval between July and October he had numerous conferences with Mr. Wismer with regard to the Attorney General's consent, and on the 1st of October Mr. Wismer stated that his fee for obtaining the consent would be Three Thousand Dollars (\$3000.00), and it was then arranged that Mr. Wismer should on obtaining the consent receive Fifteen Hundred Dollars, (\$1500.00) in cash and a note for the balance on his undertaking, of course, to refund this money if the licence was not finally issued by the Department of Inland Revenue. 10

Mr. Jackson reported that he had from that time numerous other interviews with Mr. Wismer and that finally on the 24th of October Mr. Wismer reported that he would not be able to get the consent for a further month. From this last mentioned date until the 24th of December Mr. Jackson reported that he had further conferences with Mr. Wismer and that on this last mentioned date Mr. Wismer finally stated that he had obtained the consent of the Attorney General, but that he wanted his fee in cash. From the 24th of December last until this date Mr. Jackson reported that he had further interviews with Mr. Wismer and that on it finally appearing that Mr. Sanmiya was unable to raise any money in view of the fact that the parties who proposed investing in the Company were doubtful of the granting of the consent, Mr. Wismer finally agreed to accept a promissory note of the Company for his fee and in the meantime to permit the consent of the Attorney General to be sent forward with the application for the brewery licence. 20 30

It was thereupon moved by Mr. Sanmiya and seconded by Mr. Jackson that the actions of Mr. Jackson in attempting to procure the consent of the Attorney General be confirmed and approved and that the Company do give a note to Mr. G. S. Wismer for Three Thousand Dollars (\$3000.00), at two months on the understanding to be obtained in writing from Mr. Wismer that unless the brewery licence is granted by the Department of Inland Revenue the note should be null and void.

“K. SANMIYA”
 Chairman 40

“FRANK A. JACKSON”

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 921 Birks Building, Vancouver, British Columbia, on Thursday the 14th day of February, A.D. 1924.

Present: Mr. Frank A. Jackson, in the Chair; Mr. Koichiro Sanmiya.

Mr. Jackson reported that on the 25th January 1924 the application for the brewery licence had been forwarded to Ottawa by
10 the Inland Revenue Department here, and that on the 5th February 1924 the Collector of Customs was advised that the application had been approved; that on the 13th February 1924 the premises of the Company had been inspected by the Inland Revenue officials and found satisfactory, and that the Company was requested to obtain a bond for the due performance of its obligations to the Inland Revenue Department in the sum of \$2,000.00. A form of bond of the Dominion of Canada Guarantee & Accident Insurance Company was produced, and it was resolved that the same be executed and the seal of the Company affixed thereto.
20 Done accordingly.

Mr. Sanmiya reported that he had on behalf of the Company purchased various casks, tubs, and other brewing equipment, particulars of which he will submit later, and further reported that he had with the permission of the Inland Revenue Department been preparing yeast with the expectation of putting out the first brew on or about the 15th March next.

“K. SANMIYA”

“FRANK A. JACKSON”

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
30 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 921 Birks Building, 718 Granville Street, Vancouver, British Columbia, on Thursday the 21st day of February A.D. 1924.

Present: Mr. Frank A. Jackson, in the Chair; Mr. Koichiro Sanmiya.

Mr. Jackson stated that he had in connection with the incorporation of the Company and the procuring of the licence from the Dominion Government rendered valuable services to the Company, and said that he was willing to accept in settlement for these
40 services 50 fully paid-up shares of the Company and \$1,000.00 in cash.

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It was resolved that this offer be accepted, and an agreement to this effect which he had prepared and produced be signed by the Company and the seal of the Company affixed thereto. Done accordingly.

It was resolved that pursuant to the said agreement 50 fully paid-up shares of the Company be allotted to Mr. Jackson. Done accordingly.

It was resolved that the banking account of the Company be opened with the Union Bank of Canada and that the signature of Mr. Koichiro Sanmiya as Secretary of the Company, together with the signature of Mr. Frank Alexander Jackson, as Director of the Company, shall be sufficient authority to the said Bank for the payment of all monies, to permit the inspection or withdrawal of any securities, and to receive and act upon any instructions in connection with the transactions of the Company with the said Bank. 10

And it was further resolved that the form of banking resolution supplied by the said Bank be adopted by the Company and signed by the Secretary and a Director, and forwarded to the said Bank, and that a copy of the said banking resolution be signed and attached to these minutes. 20

Mr. Sanmiya stated that he wished to transfer to Mr. Frank Alexander Jackson 50 shares of his shares in the Company, and produced a transfer of same. It was resolved that the said transfer be approved and that a new share certificate be issued to Mr. Sanmiya for 250 shares, and that a certificate be issued to Mr. Jackson for 50 shares. Done accordingly.

“K. SANMIYA”

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED 30

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 921 Birks Building, Vancouver, British Columbia, on Saturday the 23rd day of February, A.D. 1924.

Present: Mr. Frank A. Jackson, in the Chair; Mr. Koichiro Sanmiya.

Mr. Sanmiya stated that he wished to transfer to his wife, Morio Sanmiya, 245 shares of his shares in the Company, and produced a transfer of same. It was resolved that the said transfer be approved, and that a new share certificate be issued to Mr. Sanmiya for 5 shares, and that a share certificate be issued to Morio Sanmiya for 245 shares. Done accordingly. 40

“K. SANMIYA”

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 921 Birks Building, Vancouver, British Columbia, on Wednesday the 27th day of February, A.D. 1924.

Present: Mr. Frank A. Jackson, in the Chair; Mr. Koichiro Sanmiya.

Mr. Jackson reported that with Mr. Sanmiya he had interviewed the manager of the Union Bank of Canada here and requested a loan of \$600.00, and that the said loan was refused. In view of this it was resolved that a banking account be opened with the Royal Bank of Canada, East End Branch, Vancouver, B.C., and that the signature of Mr. Koichiro Sanmiya, as Secretary of the Company, shall be sufficient authority to the said Bank for the payment of all monies, to permit the inspection or withdrawal of any securities, and to receive and act upon any instructions in connection with the transactions of the Company with the said Bank.

It was further resolved that the form of banking resolution supplied by the said Bank be adopted by the Company and signed and sealed by the Secretary and a Director and be forwarded to the said Bank, and that a copy of the said banking resolution be signed and attached to these minutes. Done accordingly.

In order to raise funds, which were urgently required for the purchase of Rice and other materials, Mr. Sanmiya stated that he would lend the Company the sum of \$400.00, and Mr. Jackson stated that he would lend the Company the sum of \$300.00, \$112.00 of which had been paid by him to Mr. Sanmiya and used by Mr. Sanmiya for the Company's purposes. It was resolved that upon receipt of these monies the Company do give demand notes to Mr. Sanmiya for the amount he had advanced, and to Mr. Jackson for the amount he had advanced, both notes to bear interest at 8% per annum.

It was resolved that the resolution as to the banking account with the Bank of Montreal contained in the minutes of the meeting of the 12th July 1923 be rescinded.

It was resolved that the resolution as to the banking account with the Union Bank of Canada contained in the minutes of the 21st February 1924 be rescinded.

"K. SANMIYA"

(Banking resolution dated Feb. 27th, 1924 in common form as supplied by the Royal Bank of Canada duly signed, attached to and forming part of these minutes).

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MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of Mr. Frank A. Jackson, 921 Birks Bldg., Vancouver, B.C. on 3rd April 1924.

Present: Mr. Frank A. Jackson, in the Chair; Mr. Koichiro Sanmiya.

Mr. Jackson reported that he had interviewed Mr. C. A. Bodie with a view to obtaining further capital and that as the result Mr. Stanley Norman Wilson had agreed to invest \$3000.00 in the Company in consideration of 115 shares being transferred to him and of his being made a director. Mr. Wilson addressed the meeting and it was agreed that the said 115 shares be transferred as follows:—Morio Sanmiya, 70 shares, Frank A. Jackson, 15 shares and the balance of 30 shares as follows:—Mr. Sanmiya having stated that he was unable to pay in cash for share certificate No. 1 for 50 shares, it was arranged that Mr. Wilson's \$3000.00 should be applied in payment of 30 of the said shares and that the same be transferred to Mr. Wilson. 10

Mr. Sanmiya then stated that he would be willing to pay for the balance of the shares in said certificate in services already rendered the Company. 20

Mr. Jackson in his capacity of Solicitor then produced an agreement of this date with regard to Mr. Wilson's investment and it was resolved that the same be adopted.

Mr. Jackson further produced an agreement of this date with regard to the issuing of said 20 shares to Mr Sanmiya as fully paid-up and it was resolved that same be executed by the Company. Done accordingly.

Mr. Sanmiya then stated that he wished to transfer the said 20 shares to Morio Sanmiya and produced a transfer of same and it was resolved that the transfer be approved and that a new share certificate be issued to Morio Sanmiya for same. 30

Transfers were further produced by Morio Sanmiya to Mr. Wilson of 70 shares and by Frank A. Jackson to Mr. Wilson of 15 shares and it was resolved that share certificates be issued to Mr. Wilson for same and that new certificates be issued to Morio Sanmiya and to Mr. Jackson for the balance of their shares.

Mr. Jackson stated that Mr. Bodie's commission on Mr. Wilson's investment was 20% and it was resolved that arrangements be made to pay the same. 40

"FRANK A. JACKSON"
 "K. SANMIYA"

MINUTES OF THE FIRST ANNUAL GENERAL MEETING OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 921 Birks Building, Vancouver, B.C. on the 20th day of June, 1924.

Present: Mr. Frank A Jackson in the Chair; Mr. S. N. Wilson; Mr. K. Sanmiya; Mrs. M. Sanmiya.

Mr. Sanmiya having reported that he had verbally explained to the Directors and shareholders the financial standing of the
10 Company and it was resolved that the written statement of affairs of the Company be dispensed with.

It was further resolved that the acts of the Directors since the Company's Incorporation be approved and adopted.

It was resolved unanimously that Mr. Frank A. Jackson, S. N. Wilson and K. Sanmiya the retiring Directors be re-elected Directors of the Company. The meeting then adjourned.

“FRANK A. JACKSON”

MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

20 held at the office of Frank A. Jackson, 921 Birks Bldg., Vancouver, B.C. on 6th August 1924.

Present: Mr. Frank A. Jackson, in the Chair; Mr. S. N. Wilson; Mr. K. Sanmiya.

Mr. Sanmiya reported that the sale of the Company's sake in the government stores was going very slowly and that as several creditors were pressing for their accounts more capital should be got.

It was resolved that Japanese brokers be interviewed with a
30 view to selling shares and that the shares of the company be reduced to \$10.00 each.

Mr. Jackson then informed the meeting that it would be necessary to hold an extra-ordinary general meeting and pass a resolution to sub-divide the shares and that such resolution would have to be confirmed at a subsequent general meeting.

Mr. Jackson was then instructed to attend to the passing of the said resolution.

“FRANK A. JACKSON”

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

40 Notice is hereby given that an extra-ordinary general meeting of the company will be held at the office of Mr. Frank A. Jack-

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son, 921 Birks Bldg., Vancouver, B.C. at 11 o'clock in the forenoon on Thursday the 14th day of August 1924, at which the following resolution will be proposed:—

“that the capital of the company be subdivided into 10,000
“shares of \$10.00 each.”

And further take notice that should the said resolution be passed by the requisite majority it will be submitted for confirmation as a special resolution at a subsequent extra-ordinary general meeting of the members of the company to be held at the place aforesaid on the 2nd September 1924 at the hour of 11 o'clock in the forenoon. 10

“K. SANMIYA”
Secretary.

MINUTES OF AN EXTRA-ORDINARY GENERAL MEETING OF THE
MEMBERS OF

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held on the 14th day of August 1924 at 11 a.m., at the office of Frank A. Jackson 921 Birks Bldg., Vancouver, B.C.

Present: Mr. K. Sanmiya; Mrs. M. Sanmiya; Mr. Frank A. Jackson, in the Chair; Mr. S. N. Wilson. 20

The Secretary read the notice convening the meeting.

Resolved by Mr. Wilson and seconded by Mr. Sanmiya that the capital of the Company be subdivided into 10,000 shares of \$10.00 each. Carried unanimously.

“FRANK A. JACKSON”

MINUTES OF AN EXTRA-ORDINARY GENERAL MEETING OF THE
MEMBERS OF

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held on the 2nd day of September 1924 at 11 a.m. at the office of Frank A. Jackson 921 Birks Bldg., Vancouver, B.C. 30

Present: Mr. K. Sanmiya; Mrs. M. Sanmiya; Mr. Frank A. Jackson, in the Chair; Mr. S. N. Wilson.

The Secretary read the notice convening the meeting.

It was resolved that the subjoined resolution which was passed unanimously at the extra-ordinary general meeting of the company on the 14th day of August 1924, be confirmed as a special resolution.

“that the capital of the company be subdivided into 10,000
“shares of \$10.00 each.”

Carried unanimously. 40

“FRANK A. JACKSON”

MINUTES OF THE SECOND ANNUAL GENERAL MEETING OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor, Mr. Frank A. Jackson, 718 Granville Street, Vancouver, B.C. on the 20th day of June, 1925.

Present: Mr. Frank A. Jackson in the chair; Mr. K. Sanmiya; Mrs. M. Sanmiya.

Mr. Sanmiya having reported that he had verbally explained to the Directors and shareholders the financial standing of the
10 Company and it was resolved that the written statement of affairs of the Company be dispensed with.

It was resolved unanimously that Mr. Frank A. Jackson, S. N. Wilson and K. Sanmiya the retiring Directors be re-elected Directors of the Company. The meeting then adjourned.

“FRANK A. JACKSON”

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MINUTES OF THE THIRD ANNUAL GENERAL MEETING OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor Mr. Frank A. Jackson 718 Granville Street Vancouver B.C. on the 20th day of June.
20 1926.

Present: Mr. Frank A. Jackson in the chair; Mr. K. Sanmiya; Mrs. M. Sanmiya.

Mr. Sanmiya having reported that he had verbally explained to the Directors and shareholders the financial standing of the Company and it was resolved that the written statement of affairs of the Company be dispensed with.

It was resolved unanimously that Mr. Frank A. Jackson, S. N. Wilson and K. Sanmiya the retiring Directors be re-elected Directors of the Company. The meeting then adjourned.

30

“FRANK A. JACKSON”

MINUTES OF THE FOURTH ANNUAL GENERAL MEETING OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor Mr. Frank A. Jackson, 718 Granville Street, Vancouver, B.C. on the 20th day of June, 1927.

Present: Mr. Frank A. Jackson in the chair; Mr. K. Sanmiya; Mrs. M. Sanmiya.

Mr. Sanmiya having reported that he had verbally explained to the Directors and shareholders the financial standing of the

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Company and it was resolved that the written statement of affairs of the Company be dispensed with.

It was resolved unanimously that Mr. Frank A. Jackson, S. N. Wilson and K. Sanmiya the retiring Directors be re-elected Directors of the Company. The meeting then adjourned.

“FRANK A. JACKSON”

MINUTES OF THE FIFTH ANNUAL GENERAL MEETING OF
 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor Mr. Frank A. Jackson, 718 Granville Street, Vancouver, B.C. on the 20th day of 10
 June, 1928.

Present: Mr. Frank A. Jackson in the chair; Mr. K. Sanmiya; Mrs. M. Sanmiya.

Mr. Sanmiya having reported that he had verbally explained to the Directors and shareholders the financial standing of the Company and it was resolved that the written statement of affairs of the Company be dispensed with.

It was resolved unanimously that Mr. Frank A. Jackson, S. N. Wilson and K. Sanmiya the retiring Directors be re-elected Directors of the Company. The meeting then adjourned. 20

“FRANK A. JACKSON”

MINUTES OF THE SIXTH ANNUAL GENERAL MEETING OF
 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the office of the Company's Solicitor Mr. Frank A. Jackson, 718 Granville Street, Vancouver, B.C. on the 20th day of
 June, 1929.

Present: Mr. Frank A. Jackson in the chair; Mr. K. Sanmiya; Mrs. M. Sanmiya.

Mr. Sanmiya having reported that he had verbally explained to the Directors and shareholders the financial standing of the 30
 Company and it was resolved that the written statement of affairs of the Company be dispensed with.

It was resolved unanimously that Mr. Frank A. Jackson, S. N. Wilson and K. Sanmiya the retiring Directors be re-elected Directors of the Company. The meeting then adjourned.

“FRANK A. JACKSON”

MINUTES OF THE SEVENTH ANNUAL GENERAL MEETING OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the registered office of the Company on the 20th day of
June 1930.

Present: Mr. Frank A. Jackson in the chair; Mr. K. San-
miya; Mrs. M. Sanmiya.

It was resolved unanimously that Mr. Frank A. Jackson, Mr.
K. Sanmiya and Mr. Y. Yamazaki be appointed Directors of the
Company.

- 10 Mr. Sanmiya having reported that he had verbally explained
to the Directors and shareholders the financial standing of the
Company and it was resolved that the written statement of affairs
of the Company be dispensed with. The meeting then adjourned.

“FRANK A. JACKSON”

MINUTES OF AN EXTRA-ORDINARY GENERAL MEETING OF THE
SHAREHOLDERS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the registered office of the Company on March 31st 1931.

- 20 Present: Mr. Frank A. Jackson (in the Chair); Morio San-
miya in her personal capacity and representing the estate of K.
Sanmiya deceased.

Mr. Jackson informed the meeting that Mr. K. Sanmiya had
died on the 11th day of March 1931 and Mr. Yamazaki being in
Japan, it was necessary to appoint an additional Director of the
Company. It was thereupon resolved by Mr. Jackson and seconded
by Morio Sanmiya that Morio Sanmiya be appointed Director of
the Company.

- 30 A form of banking resolution of the Royal Bank of Canada
was submitted by Mr. Frank A. Jackson and it was resolved that
the same be adopted by the Company and signed by the President
and a Director and forwarded to the bank and a copy of the said
banking resolution be signed and attached to these minutes.

Done accordingly.

“FRANK A. JACKSON”

(Banking resolution dated March 31st, 1931 in common form
as supplied by the Royal Bank of Canada duly signed, attached
to and forming part of these minutes).

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MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
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held at the registered office of the Company on the 28th day of April 1931.

Present: Mr. Frank A. Jackson; Morio Sanmiya.

Mr. Jackson reported to the meeting that Mr. Yamazaki had informed him that he had not purchased the shares of S. N. Wilson and that he was not a Director of the Company and did not wish to become a Director of the Company.

“FRANK A. JACKSON” 10

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the registered office of the Company on Monday, the 14th day of September 1931, at 5 o'clock in the afternoon.

Present: Frank A. Jackson; Morio Sanmiya.

Mrs. Sanmiya produced share certificates numbers 9, 10 and 11 in the name of Stanley Norman Wilson for 115 shares of the par value of \$100 each and informed the Board that she had recently purchased these shares and asked that the transfer to her be approved. Done accordingly. 20

“FRANK A. JACKSON”

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the registered office of the Company, on Tuesday, the 15th day of September, 1931, at 11 o'clock in the forenoon.

Present: Frank A. Jackson; Morio Sanmiya.

An Agreement dated the 15th day of September, 1931 between Morio Sanmiya, Frank A. Jackson, I. B. Hewer and the Company, was submitted to the meeting by Mr. Frank A. Jackson in his capacity as Solicitor for the Company and it was resolved that the seal of the Company be affixed thereto, attested by the hand of its President Mr. Jackson and its Director Morio Sanmiya. 30

“FRANK A. JACKSON”
“M. SANMIYA”

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the registered office of the Company, on Tuesday, the 15th day of September, 1931, at 3 o'clock in the afternoon.

Present: Frank A. Jackson; Morio Sanmiya.

It was resolved by Mr. Jackson and seconded by Mrs. Sanmiya that the Company do make application to the Collector of Customs here, for the transfer of the Brewers and Maltsters Licenses to premises known as Lots 24-29 inclusive, Block 5, Sub-division "B" District Lot 182, City of Vancouver, being situated at the corner of McLean Drive and Powell Street.

Mr. Jackson then produced the applications for the transfer together with the proper forms required by the Excise Department and it was resolved that the same be executed by Mr. Jackson as President of the Company and the seal of the Company be affixed by him thereto.

"FRANK A. JACKSON"
"M. SANMIYA"

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20 MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
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held at the registered office of the Company on Friday the 16th day of October 1931.

Present: Mr. Frank A. Jackson; Morio Sanmiya.

It was resolved by Mr. Jackson and seconded by Mrs. Sanmiya that Mr. Irvine Bruce Hewer and Mr. Robert Scott Lennie be appointed Directors of the Company.

A transfer of one share by Morio Sanmiya to Mr. Hewer was produced and approved and a transfer of one share by Morio Sanmiya to Mr. Lennie was produced and approved.

30 "FRANK A. JACKSON"
"M. SANMIYA"

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held at the registered office of the company on Friday, the 16th day of October, A.D. 1931.

Present: Frank A. Jackson, Morio Sanmiya, I. B. Hewer and R. S. Lennie.

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 July 11, 1923
 (Contd.)

The minutes of a meeting of the Board held this day approving of the transfer of one share each to Mr. Hewer and Mr. Lennie were read and adopted.

The resignation of Morio Sanmiya as a director of the company was submitted and on motion it was accepted. The resignation of Frank A. Jackson as a director was also submitted and accepted.

The meeting then adjourned.

“I. B. HEWER”

“R. S. LENNIE”

10

Vancouver, B.C., 16th October, 1931.

TO THE BOARD OF DIRECTORS OF

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

I hereby tender my resignation as Director of this Company to take effect forthwith.

“M. SANMIYA”

Vancouver, B.C., 16th October, 1931.

TO THE BOARD OF DIRECTORS OF

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

I hereby tender my resignation as Director of this Company to take effect forthwith.

“FRANK A. JACKSON”

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held in the offices of Lennie & McMaster, 901 Vancouver Block, 736 Granville Street, on Friday, the 16th day of October, A.D. 1931.

Present: R. S. Lennie and I. B. Hewer.

Minutes of the meeting of the Board held this day were read and adopted.

30

On motion it was resolved that the banking account of the company be opened with the Bank of Montreal at its office on the corner of Main and Hastings Streets in the City of Vancouver, B.C. and that the signature of the manager and one director shall be sufficient authority to the bank for the payment of all monies

to permit the inspection or withdrawal of any securities and to receive and act upon any instructions in connection with the transactions of the company with the said bank and it was further resolved that the form of banking resolution supplied by the said bank be adopted by the company and signed by the secretary and a director and forwarded to the said bank and that a copy of the said banking resolution be signed and attached to these minutes.

10 On motion it was resolved that Clifford Hewer, Esq., be appointed manager of the company at a monthly salary of Two hundred dollars (\$200.00).

On motion it was resolved that the company do borrow the sum of One thousand dollars (\$1,000.00) to be used as working capital pending further arrangements.

On motion it was resolved that the existing share certificates of One hundred dollar (\$100.) denomination be cancelled and that new shares be issued at Ten dollar (\$10.) denomination in accordance with the resolution of the shareholders.

20 On motion it was resolved that the transfer of all the issued shares to I. B. Hewer and R. S. Lennie be approved and that certificates be issued in respect thereof.

Upon motion it was further resolved that Seeds Martin & Co. be appointed auditors of the company and requested to open and keep proper books of account in accordance with the provisions of the "Excise Act" (Dominion) and the "Companies Act" (Provincial).

Upon motion it was resolved that the following officers be appointed:

R. S. Lennie, President; I. B. Hewer, Vice-President; G. F. McMaster, Secretary.

30 The remuneration of the auditors was left in the hands of the Board.

The meeting then adjourned.

"I. B. HEWER"

"R. S. LENNIE"

(Banking resolution dated Oct. 17th, 1931 in common form as supplied by the Bank of Montreal duly signed, attached to and forming part of these minutes).

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 32
Minute Book
Vancouver
Malt & Sake
Brewing Co.,
Ltd.

July 11, 1923
(Contd.)

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 32
Minute Book
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 11, 1923
(Contd.)

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

held in the offices of Lennie & McMaster, 901 Vancouver Block,
736 Granville Street, Vancouver, B.C., on Friday the 12th day of
February, A.D. 1932

Present: R. S. Lennie, I. B. Hewer.

The minutes of the Board dated 16th October, A.D. 1931, were
read and adopted.

Consideration was given to a letter from Pattullo & Tobin to
Mr. I. B. Hewer dated 27th October, 1931, and on motion it was 10
resolved that he reply thereto in the terms of the letter dated this
day as follows:—

“Messrs. Vancouver Breweries Limited,
“c/o Messrs. Pattullo & Tobin,
“Barristers and Solicitors,
“510 West Hastings St.,
“Vancouver, B.C.

“Dear Sirs:

“I am instructed by the Board of Directors of this com-
“pany to state in reference to your letter of the 27th of Octo- 20
“ber last directed to the writer that I did not purchase the
“brewery license standing in the name of this company.

“I may say, however, that prior to the receipt of your
“letter I did purchase shares in this company.

“At the time of the purchase of such shares the Minutes
“of the company and its books of account were audited and
“there was no record of any authorization for the execution
“of any agreement affecting the licenses or business of the
“company whatever with your company.

“Before I purchased shares in the said company I stipu- 30
“lated that its location should be changed and removed to
“premises I had purchased namely Lots 24 to 29 inclusive,
“Block 5, Subdivision “B,” District Lot 182, City of Van-
“couver, being situate at the corner of McLean Drive and
“Powell Street and numbered 1455 Powell Street and in due
“course the licenses were transferred according to law to the
“said premises.

“I have obtained counsel’s opinion and am advised that
“the alleged agreement contained in the letter first mentioned,
“for many reasons is wholly illegal and void and I am author- 40
“ized to say that the company will contest its validity at all
“times.

10 “In addition to the absence of any authority for the
 “execution of such agreement or to attach the seal thereto
 “there is no record of the Company having received the sum
 “of \$15,000.00 from your company, however for the purpose
 “of avoiding litigation and without admitting but denying the
 “said agreement and its validity I am authorized to say that
 “if you will surrender it and execute a formal release thereof
 “this company will pay you the sum of \$15,000.00 if the sur-
 “render is made and the release is executed within a period of
 “thirty days from the date hereof.

“I may also add that it is this company’s intention to
 “exercise all the privileges granted to it by its license regard-
 “less of the alleged agreemnt and to immediately proceed with
 “the erection of a plant for that purpose.”
 The meeting then adjourned.

“R. S. LENNIE”

RECORD
 In the Supreme
 Court of British
 Columbia

Exhibit No. 32
 Minute Book
 Vancouver
 Malt & Sake
 Brewing Co.,
 Ltd.
 July 11, 1923
 (Contd.)

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

20 held in the offices of Lennie & McMaster, 901 Vancouver Block,
 736 Granville Street, Vancouver, B.C. on Tuesday the 5th day of
 April, 1932.

Present: R. S. Lennie, I. B. Hewer.

A letter from G. A. Allen, Collector of National Revenue,
 Vancouver, B.C., directed to R. S. Lennie, Esquire, dated the 4th
 instant with enclosures was read to the meeting and on motion it
 was resolved that the undertaking requested be executed by two of
 the directors of the company who were authorized to attach the
 corporate seal thereto in terms as follows:—

30 “Vancouver Malt & Sake Brewing Company Limited, hereby
 “undertakes to abide by the terms of the conditions to be
 “attached to its license for the year 1932-33 as follows:—

“This license is subject to the conditions, which Van-
 “couver Malt and Sake Brewing Company, Limited,
 “undertakes, that it will not by virtue of this license
 “brew, manufacture, sell or dispose of beer, ale, porter or
 “lager beer, with the exception only of Sake, until the
 “final determination of an action commenced in the Su-
 “preme Court of British Columbia (Writ issued 8th
 “March 1932) between Vancouver Breweries Limited,
 “plaintiff, and Vancouver Malt and Sake Brewing Com-
 “pany Limited, defendant, wherein the right of Vancou-
 “ver Malt and Sake Brewing Company, Limited, to en-

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 32
Minute Book
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
July 11, 1923
(Contd.)

“gage in or carry on the business of brewing, manufac-
“turing, selling or disposing of beer, ale, porter, lager
“beer or any article or articles made in imitation thereof,
“other than Sake, is denied and an injunction sought and
“a declaration claimed that the plaintiffs are entitled to
“all the benefits of this license, or until this condition is
“removed, withdrawn or varied by the Department of
“National Revenue acting through its Minister or the
“Commissioner of Excise. Cancellation of this license
“shall follow any breach of this condition or undertaking 10
“by Vancouver Malt and Sake Brewing Company
“Limited.”

As witness the common seal of the company attached in the
presence of the undersigned Directors this sixth day of April,
AD. 1932.

The common seal of the
Vancouver Malt & Sake Brewing }
Company Limited was hereunto }
affixed in the presence of:

The meeting then adjourned .

“R. S. LENNIE”

EXHIBIT No. 14

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 14
 Vancouver Breweries vs.
 Vancouver Malt & Saki
 Put in by "P"
 Registrar

S. C. 437/32.

RECORD
 In the Supreme
 Court of British
 Columbia

Exhibit No. 14
 Letter
 F. A. Jackson
 to Attorney
 General
 July 12, 1923

12th July, 1923

10 The Honorable The Attorney General,
 Victoria, B.C.

Sir:

RE VANCOUVER MALT & SAKE BREWING CO. LTD.

This private company has just been incorporated with a capital of \$100,000.00 divided into ten thousand shares of \$100.00 each. It is the intention of the Company to malt rice and brew sake for sale to the Liquor Board of this Province, and for export to South America and to Mexico, where there are large colonies of Japanese.

20 The company will be purely a Japanese company. The promoters have been assured by Mr. G. A. Allen, the Collector of Customs of this City, that if your consent to operate a brewery is obtained the brewery license will be granted by the Dominion.

I enclose a copy of the Memorandum of Association and you will see that we have carefully excluded any powers to brew beer, and that the company will only make sake, which is brewed similar to the manner in which beer is produced. You will also note that we have excluded any powers to distill any form of liquor.

30 Mr. K. Sanmiya, who is promoting this company, and has signed the Memorandum, proposes himself to invest \$20,000.00 in the company, and he informs me that his Japanese associates will invest approximately \$50,000.00 more.

You will note further that from Paragraph 3A of the Memorandum of Association the Company is taking over a maltster's licence which has already been issued to the Morut Company, a business now carried on by Mr. K. Sanmiya.

40 I can assure you that there will be no attempts by this company to evade the provisions of the Liquor Act by illicit sales of sake to Japanese or other persons in this City or elsewhere. The business which the company will do with the local Liquor Board will be small in comparison to the business which will be carried on with South America and Mexico.

I have the Honor to be,

Sir,

FAJ/M.

Your obedient servant,

"FRANK A. JACKSON"

RECORD

EXHIBIT No. 15

S. C. 437/32.

*In the Supreme
Court of British
Columbia*Supreme Court of B.C.
Vancouver Registry

Exhibit No. 15

Exhibit No. 15

Letter

Vancouver Breweries vs.

Vancouver
Malt & Sake
Brewing Co.,
Ltd. to

Vancouver Malt & Sake

Put in by "P" Date June 1st, 1932.

Attorney
General
Undated

"F. T. H," Registrar.

The Honourable,
the Attorney-General,
Victoria, B.C.

10

Dear Sir,

In connection with the application for permission for a sake brewery licence we agree as follows:

1. We undertake not to sell any malt or other product of the brewery to anyone in British Columbia and we undertake not to sell any sake or other liquid manufactured product to anyone in the Province of British Columbia except the Government of the Province of British Columbia and it is agreed that if we contravene either of these terms you are to have the liberty to apply without objection on our part for cancellation of our brewery license. 20

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

"K. SANMIYA"

Sec'y

"FRANK A. JACKSON"

President

(SEAL)

EXHIBIT No. 18

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 18
 Vancouver Breweries vs.
 Vancouver Malt & Saki
 Put in by "P" Date June 1st, 1932.
 "F. T. H," Registrar.

RECORD
 In the Supreme
 Court of British
 Columbia

Exhibit No. 18
 Letter
 Attorney
 General to
 F. A. Jackson
 July 21, 1923

ATTORNEY-GENERAL

(Coat of Arms)

10

PROVINCE OF BRITISH COLUMBIA

Victoria
 July 21st, 1923.

F. A. Jackson, Esq.,
 Barrister,
 921 Birks Building,
 Vancouver, B.C.

Dear Sir:

RE VANCOUVER MALT & SAKE BREWING CO. LTD.

20 I have yours of the 12th instant.

I cannot see my way clear to consenting to this brewery.

Yours truly,

"A. M. MANSON"

RECORD

EXHIBIT No. 24

*In the Supreme
Court of British
Columbia*

COPY

Exhibit No. 24
Telegram
R. R. Farrow
to Collector
Customs and
Excise
Vancouver
Feb. 5, 1924

Form T.D. 1X

CANADIAN PACIFIC RAILWAY COMPANY'S
TELEGRAPH(Trade Mark)
Design

T E L E G R A M

Rubber Stamp
"Custom-Excise-Canada
Collector's Office
Feb. 5, 1924
Vancouver, B.C."

10

J. McMILLAN, General Manager of
Telegraphs, Montreal

CABLE CONNECTIONS TO ALL THE WORLD

237RA MO 21 1XA

OTTAWA ONT FEB 5 1924

COLLECTOR CUSTOMS & EXCISE
VANCOUVER, B.C.APPLICATION VANCOUVER MALT AND SAKE BREW-
ING CO FOR BREWERS LICENSE FOR PRODUCTION OF 20
SAKE EXCLUSIVELY APPROVED LICENSE MAY BE
ISSUEDR R FARROW
COMMISSIONER

1449K

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 24
Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932.
"F. T. H," Registrar.

30

EXHIBIT No. 23

1-V 5

(Coat of Arms)

DEPARTMENT OF CUSTOMS AND EXCISE

(Rubber Stamp)
 Customs-Excise-Canada
 Collectors Office
 10 Feb. 18, 1924
 Vancouver, B.C.

Reply (if any) to be
 addressed to
 "Commissioner of
 Customs and Excise"
 (R. R. FARROW)
 Refer to file
 No. 113321.

RECORD
 In the Supreme
 Court of British
 Columbia

Exhibit No. 23
 Letter
 Geo. W.
 Taylor to
 Collector
 Customs and
 Excise
 Vancouver
 Feb. 13, 1924

Ottawa, Canada, Feb. 13th, 1924.

Collector,
 Customs and Excise,
 Vancouver, B.C.

Sir:

With reference to your letter of the 28th ultimo, and Departmental telegram in reply thereto, dated the 5th instant, respecting the application of the Vancouver Malt and Sake Company, Limited, for Brewers' License to brew Sake exclusively, you are requested, so soon as the plans and descriptions of premises and vessels have been prepared, to forward same, accompanied by the application for License and the Guarantee Bond, to the Department, for formal endorsement of approval of issue of License.

The application should, of course, indicate that it is made for the brewing of Sake exclusively, and the papers should be approved by the District Inspector before being forwarded to the Department.

I remain, Sir,

30

Your obedient servant,

"GEO. W. TAYLOR"

Asst. Commissioner

GWT/F.

S. C. 437/32.

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 23

Vancouver Breweries vs.
 Vancouver Malt & Sake
 Put in by "P" Date June 1st, 1932.

40 "F. T. H," Registrar

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 17
Brewer's
License
No. 5108
Feb. 14, 1924

EXHIBIT No. 17

CANADA EXCISE

Local Licence No. 4

General Number 5108

INLAND REVENUE
(Coat of Arms)

Registered No. of Brewery 4

Bb. 2

BREWER'S LICENSE
For the Year 1924 19.....

TO ALL WHOM IT MAY CONCERN

This license is granted to Vancouver Malting and Sake Brew-
ing Co., Ltd. of the City of Vancouver, in the County of Vancouver ¹⁰
in the Province of British Columbia to carry on the trade or busi-
ness of a Brewer of Malt Liquors in the brewery situated at
320 Woodland Drive, Vancouver, B.C. and more particularly de-
scribed in the application made for this License under date
January 25th, 1924 he having paid the License fee of Fifty Dollars
thereon, conformably to the provisions of "The Inland Revenue
Act."

This License to be in force from the Fourteenth day of
February one thousand nine hundred and Twenty Four until the ²⁰
thirty-first day of March, one thousand nine hundred and Twenty
Four provided the said Vancouver Maltg. & Sake Brg. Co. Ltd.
shall conform to the requirements of the said Act, and shall also
comply with all laws, regulations and orders made by any compe-
tent authority whatever.

Inland Revenue Division of Vancouver
Granted at Vancouver this Fourteenth
day of February, 1924.

"R. E. MAXWELL"
Act'g Collector of
Customs and Excise ³⁰

S. C. 437/32.

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 17
Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932.
"F. T. H." Registrar

EXHIBIT No. 25

Form 14

"COMPANIES ACT"
(Section 122)

Certificate No. 7034

ANNUAL REPORT

RECORD
*In the Supreme
Court of British
Columbia*Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
June 21, 1924

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 21st day of June, 1924 (being the day after the date of the First Ordinary
10 General Meeting in 1924).

Nominal share capital \$100,000.00 divided into 1,000 ordinary shares of.....	\$100.00 each
Total number of shares* taken up to the said 21st day of June, 1924 (which number must agree with the total shown in the list as held by existing members)— Ordinary	401
Number of shares issued subject to payment wholly in cash—Ordinary	51
20 Number of shares issued as fully paid up otherwise than in cash—Ordinary	350
† There has been called up on each of 401 ordinary shares	\$ 100.00
Total amount of calls received, including payments on application and allotment.....	\$40,100.00
Total amount (if any) agreed to be considered as paid on 350 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately.
30 If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

RECORD
*In the Supreme
 Court of British
 Columbia*

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 21st day of June, 1924.

Exhibit No. 25
 Annual
 Reports
 Vancouver
 Malt & Sake
 Brewing Co.,
 Ltd.
 June 21, 1924
 (Contd.)

NAMES	ADDRESSES
"Koichiro Sanmiya"	937 Cordova St., E, Vancouver, B.C.
"Frank A. Jackson"	718 Granville St., Vancouver, B.C.
"Stanley Norman Wilson"	635 Hoy St., Collingwood, E. Vancouver, B.C.

Original filed and registered the 28th day of October, 1926.

"H. G. GARRETT"
 Registrar of Companies

Certified a true copy
 May 27th, 1932
 "H. G. GARRETT"
 Registrar of Companies

20

S. C. 437/32.

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No 25
 Vancouver Breweries vs.
 Vancouver Malt & Sake

Put in by "D" Date June 1st, 1932
 "F. T. H," Registrar

Registrar of Companies
 (SEAL)
 British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 21st day of June, 1924, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

Folio in register ledger containing Particulars	FULL NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES			REMARKS
	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		
						Num-ber‡	Date of registration of transfer†	
Jackson	FrankAlexander	718 Granville St. Vancouver.	Solicitor	86	15	Apl. 3/24	to S. N. Wilson to F. A. Jackson to M. Sanmiya (30) to S. N. Wilson (20) to M. Sanmiya to S. N. Wilson	
Sanmiya	Koichiro	937 Cordova St., E. Vancouver.	Brewer	5	50	Feb. 21/24		
Sanmiya	Morio	937 Cordova St., E. Vancouver.	Married Woman	195	245	Feb. 23/24		
Wilson	Stanley Norman	635 Hoy St., Collingwood E., Vancouver.	Clerk	115	50	Apl. 3/24		
			Total.....		401	70	Apr. 3/24	

193

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "K. SANMIYA"

Manager

RECORD
In the Supreme
Court of British
Columbia
Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
June 21, 1924

RECORD

In the Supreme
Court of British
Columbia

Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

Form 14

"COMPANIES ACT"
(Section 122)

Certificate No. 7034

ANNUAL REPORT

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 21st day of June, 1925 (being the day after the date of the First Ordinary General Meeting in 1925).

Nominal share capital \$100,000.00 divided into 10,000 ordinary shares of.....	\$ 10.00 each	10
Total number of shares* taken up to the said 21st day of June, 1925 (which number must agree with the total shown in the list as held by existing members)—		
Ordinary		4010
Number of shares issued subject to payment wholly in cash—Ordinary		510
Number of shares issued as fully paid up otherwise than in cash—Ordinary		3500
† There has been called up on each of 4010 ordinary shares	\$ 10.00	20
Total amount of calls received, including payments on application and allotment.....	\$40,100.00	
Total amount (if any) agreed to be considered as paid on 3500 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00	

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly. 30

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 21st day of June, 1925.

RECORD
In the Supreme Court of British Columbia

NAMES	ADDRESSES	Exhibit No. 25 Annual Reports Vancouver Malt & Sake Brewing Co., Ltd.
"Koichiro Sanmiya"	937 Cordova St., E, Vancouver, B.C.	
"Frank A. Jackson"	718 Granville St., Vancouver, B.C.	
"Jackson, Frank A."	635 Hoy St., Collingwood, E. Vancouver, B.C.	

10

Original filed and registered the 28th day of October, 1926.
"H. G. GARRETT"
Registrar of Companies

Certified a true copy
May 27th, 1932
"H. G. GARRETT"
Registrar of Companies

20

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 21st day of June, 1925, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

FULL NAMES, ADDRESSES AND OCCUPATIONS					ACCOUNT OF SHARES			
Folio in register ledger containing Particulars	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		REMARKS
						Number‡	Date of registration of transfer†	
	Jackson	FrankAlexander	718 Granville St. Vancouver.	Solicitor	854	6	Jan. 13/25	to M. Adami
	Sanmiya	Koichiro	937 Cordova St., E. Vancouver.	Brewer	50			
	Sanmiya	Morio	937 Cordova St., E. Vancouver.	Married Woman	1935	15	Jan. 13/25	to M. Adami
	Wilson	Stanley Norman	635 Hoy St., Collingwood E., Vancouver.	Clerk	1141	9	Jan. 13/25	to M. Adami
	Adami	M.	Vancouver.	Merchant	30			
				Total	4010			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "K. SANMIYA"
 Manager

Form 14

"COMPANIES ACT"
(Section 122)

Certificate No. 7034

RECORD
In the Supreme
Court of British
ColumbiaExhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

ANNUAL REPORT

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 26th day of June, 1926 (being the day after the date of the First Ordinary General Meeting in 1926).

10	Nominal share capital \$100,000.00 divided into 10,000 ordinary shares of.....	\$10.00 each
	Total number of shares* taken up to the said 26th day of June, 1926 (which number must agree with the total shown in the list as held by existing members)—	
	Ordinary	4010
	Number of shares issued subject to payment wholly in cash—Ordinary	510
	Number of shares issued as fully paid up otherwise than in cash—Ordinary	3500
20	† There has been called up on each of 4010 ordinary shares	\$ 10.00
	Total amount of calls received, including payments on application and allotment.....	\$40,100.00
	Total amount (if any) agreed to be considered as paid on 3500 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

RECORD
In the Supreme
Court of British
Columbia

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 26th day of June, 1926.

Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

NAMES	ADDRESSES
"Koichiro Sanmiya"	937 Cordova St., E, Vancouver, B.C.
"Frank A. Jackson"	718 Granville St., Vancouver, B.C.
"Stanley Norman Wilson"	635 Hoy St., Collingwood, E. Vancouver, B.C.

10

Original filed and registered the 28th day of October, 1926.
"H. G. GARRETT"
Registrar of Companies

Certified a true copy
May 27th, 1932.
"H. G. GARRETT"
Registrar of Companies

Registrar of Companies 20
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 26th day of June, 1926, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

Folio in register ledger containing Particulars	FULL NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES		REMARKS
	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.	
					Num-ber‡	Date of registration of transfer†	
	Jackson	FrankAlexander	718 Granville St. Vancouver.	Solicitor	854		
	Sanmiya	Koichiro	937 Cordova St., E. Vancouver.	Brewer	50		
	Sanmiya	Morio	937 Cordova St., E. Vancouver.	Married Woman	1935		
	Wilson	Stanley Norman	635 Hoy St., Collingwood E., Vancouver.	Clerk	1141		
	Adami	M.	Vancouver.	Merchant	30		
				Total.....	4010		

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "K. SANMIYA"

Manager

RECORD
 In the Supreme Court of British Columbia
 Exhibit No. 25
 Annual Reports
 Vancouver Malt & Sake Brewing Co., Ltd.
 (Contd.)

RECORD
*In the Supreme
 Court of British
 Columbia*

Exhibit No. 25
 Annual
 Reports
 Vancouver
 Malt & Sake
 Brewing Co.,
 Ltd.
 (Contd.)

Form 14
 "COMPANIES ACT"
 (Section 122)

Certificate No. 7034

ANNUAL REPORT

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 25th day of June, 1927 (being the day after the date of the First Ordinary General Meeting in 1927).

Nominal share capital \$100,000.00 divided into 10,000 ordinary shares of.....	\$ 10.00 each	10
Total number of shares* taken up to the said 25th day of June, 1927 (which number must agree with the total shown in the list as held by existing members)— Ordinary		4010
Number of shares issued subject to payment wholly in cash—Ordinary		510
Number of shares issued as fully paid up otherwise than in cash—Ordinary		3500
†There has been called up on each of 4010 ordinary shares	\$ 10.00	20
Total amount of calls received, including payments on application and allotment.....	\$40,100.00	
Total amount (if any) agreed to be considered as paid on 3500 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00	

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

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‡ Include what has been received on forfeited, as well as on existing shares.

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 25th day of June, 1927.

RECORD
In the Supreme
Court of British
Columbia

NAMES	ADDRESSES	Exhibit No. 25 Annual Reports Vancouver Malt & Sake Brewing Co., Ltd. (Contd.)
"Sanmiya, Koichiro"	937 Cordova St., E, Vancouver, B.C. Brewer	
"Jackson, Frank A."	718 Granville St., Vancouver, B.C. Solicitor	
10 "Wilson, Stanley Norman"	635 Hoy St., Collingwood, E. Vancouver, B.C. Clerk (Signature) "Frank A. Jackson"	

Original filed and registered the 3rd day of November, 1928
"H. G. GARRETT"
Registrar of Companies

Certified a true copy
May 27th, 1932
"H. G. GARRETT"
Registrar of Companies

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 25th day of June, 1927, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

FULL NAMES, ADDRESSES AND OCCUPATIONS					ACCOUNT OF SHARES		REMARKS	
Folio in register ledger containing Particulars	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		
						Num-ber‡		Date of registration of transfer†
	Jackson	Frank Alexander	718 Granville St. Vancouver.	Solicitor	854			
	Sanmiya	Koichiro	937 Cordova St., E. Vancouver.	Brewer	50			
	Sanmiya	Morio	937 Cordova St., E. Vancouver.	Married Woman	1935			
	Wilson	Stanley Norman	635 Hoy St., Collingwood E., Vancouver.	Clerk	1141			
	Adami	M.	Vancouver.	Merchant	30			
				Total	4010			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "Frank A. Jackson"

Form 14

"COMPANIES ACT"
(Section 122)

Certificate No. 7034

RECORD

*In the Supreme
Court of British
Columbia*Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

ANNUAL REPORT

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 26th day of June, 1928 (being the day after the date of the First Ordinary General Meeting in 1928).

10	Nominal share capital \$100,000.00 divided into 10,000 ordinary shares of.....	\$10.00 each
	Total number of shares* taken up to the said 26th day of June, 1928 (which number must agree with the total shown in the list as held by existing members)— Ordinary	4010
	Number of shares issued subject to payment wholly in cash—Ordinary	510
	Number of shares issued as fully paid up otherwise than in cash—Ordinary	3500
20	† There has been called up on each of 4010 ordinary shares	\$ 10.00
	Total amount of calls received, including payments on application and allotment.....	\$40,100.00
	Total amount (if any) agreed to be considered as paid on 3500 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

RECORD
*In the Supreme
 Court of British
 Columbia*

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 26th day of June, 1928.

Exhibit No. 25
 Annual
 Reports
 Vancouver
 Malt & Sake
 Brewing Co.,
 Ltd.
 (Contd.)

NAMES	ADDRESSES
"Sanmiya, Koichiro"	937 Cordova St., E, Vancouver, Brewer
"Jackson, Frank A."	718 Granville St., Vancouver, Solicitor
"Wilson, Stanley Norman"	635 Hoy St., Collingwood, E. Vancouver. Clerk
(Signature) "Frank A. Jackson" 10	

Original filed and registered the 3rd day of November, 1928
 "H. G. GARRETT"
 Registrar of Companies

Certified a true copy
 May 27th, 1932.
 "H. G. GARRETT"
 Registrar of Companies

Registrar of Companies
 (SEAL)
 British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 26th day of June, 1928, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

Folio in register ledger containing Particulars	FULL NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES			
	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*‡	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		REMARKS
						Num-ber†	Date of regis-tration of transfer†	
	Jackson	FrankAlexander	718 Granville St. Vancouver.	Solicitor	854			
	Sanmiya	Koichiro	937 Cordova St., E. Vancouver.	Brewer	50			
	Sanmiya	Morio	937 Cordova St., E. Vancouver.	Married Woman	1935			
	Wilson	Stanley Norman	635 Hoy St., Collingwood E., Vancouver.	Clerk	1141			
	Adami	M.	Vancouver.	Merchant	30			
				Total.....	4010			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "Frank A. Jackson"

RECORD
 In the Supreme Court of British Columbia
 Exhibit No. 25
 Annual Reports
 Vancouver Malt & Sake Brewing Co., Ltd.
 (Contd.)

Form 14

"COMPANIES ACT"
(Section 122)

RECORD

*In the Supreme
Court of British
Columbia*Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

ANNUAL REPORT

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 26th day of June, 1929 (being the day after the date of the First Ordinary General Meeting in 1929).

Nominal share capital \$100,000.00 divided into 10,000 ordinary shares of.....	\$ 10.00 each	10
Total number of shares* taken up to the said 26th day of June, 1929 (which number must agree with the total shown in the list as held by existing members)—		
Ordinary		
Number of shares issued subject to payment wholly in cash—Ordinary	510	
Number of shares issued as fully paid up otherwise than in cash—Ordinary	3500	
†There has been called up on each of 4010 ordinary shares	\$ 10.00	20
Total amount of calls received, including payments on application and allotment.....	\$40,100.00	
Total amount (if any) agreed to be considered as paid on 3500 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00	

- * Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.
- † Where various amounts have been called, or there are shares of different classes, state them separately.
- ‡ Include what has been received on forfeited, as well as on existing shares.

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 26th day of June, 1929.

RECORD
In the Supreme
Court of British
Columbia

NAMES	ADDRESSES	Exhibit No. 25 Annual Reports Vancouver Malt & Sake Brewing Co., Ltd. (Contd.)
"Sanmiya, Koichiro"	2222 Dundas St., Vancouver, B.C., Brewer.	
"Jackson, Frank A."	626 Birks Bldg., Vancouver, B.C., Barrister.	
10 "Wilson, Stanley Norman"	635 Hoy St., Burnaby, B.C. Clerk.	

Original filed and registered the 15th day of November, 1930
"H. G. GARRETT"
Registrar of Companies

Certified a true copy
May 27th, 1932
"H. G. GARRETT"
Registrar of Companies

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 26th day of June, 1929, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

FULL NAMES, ADDRESSES AND OCCUPATIONS					ACCOUNT OF SHARES		REMARKS
Folio in register ledger containing Particulars	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*‡	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.	
					Num-ber‡	Date of registration of transfer†	
	Jackson	FrankAlexander	718 Granville St. Vancouver.	Solicitor	854		
	Sanmiya	Koichiro	2222 Dundas St., Vancouver.	Brewer	50		
	Sanmiya	Morio	2222 Dundas St., Vancouver.	Housewife	1935		
	Wilson	Stanley Norman	635 Hoy St., Burnaby B. C.	Clerk	1141		
	Adami	M.	2222 Dundas St., Vancouver.	Merchant	30		
				Total	4010		

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "Frank A. Jackson"
President

Form 14

“COMPANIES ACT”
(Section 122)

Certificate No. 7034

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

ANNUAL REPORT

Summary of share capital and shares of Vancouver Malt & Sake Brewing Company, Limited, made up to the 26th day of June, 1930 (being the day after the date of the First Ordinary General Meeting in 1930).

10	Nominal share capital \$100,000.00 divided into 10,000 ordinary shares of.....	\$10.00 each
	Total number of shares* taken up to the said 26th day of June, 1930 (which number must agree with the total shown in the list as held by existing members)—	
	Ordinary	4010
	Number of shares issued subject to payment wholly in cash—Ordinary	510
	Number of shares issued as fully paid up otherwise than in cash—Ordinary	3500
20	† There has been called up on each of 4010 ordinary shares	\$ 10.00
	Total amount of calls received, including payments on application and allotment.....	\$40,100.00
	Total amount (if any) agreed to be considered as paid on 3500 shares which have been issued as fully paid up otherwise than in cash.....	\$35,000.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

RECORD
*In the Supreme
 Court of British
 Columbia*

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Malt & Sake Brewing Company Limited, on the 26th day of June, 1930.

Exhibit No. 25
 Annual
 Reports
 Vancouver
 Malt & Sake
 Brewing Co.,
 Ltd.
 (Contd.)

Kiochiro Sanmiya, 2222 Dundas St., Vancouver, B.C., Brewer.

Frank Alexander Jackson, 626 Birks Bldg., Vancouver, B.C.
 Barrister.

Yasishu Yamazaki, 215 Cordova St. E., Vancouver, B.C.,
 Publisher.

Certified a true copy
 May 27th, 1932.
 "H. G. GARRETT"
 Registrar of Companies

Original filed and regis-
 tered the 15th day of 10
 November, 1930
 "H. G. GARRETT"
 Registrar of Companies

Registrar of Companies
 (SEAL)
 British Columbia

LIST OF PERSONS holding shares in Vancouver Malt & Sake Brewing Company, Limited, on the 26th day of June, 1930, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

Folio in register ledger containing Particulars	FULL NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES			
	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of re- turn*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		REMARKS
						Num- ber‡	Date of regis- tration of transfer‡	
	Jackson	FrankAlexander	626 Birks Bldg., Vancouver.	Barrister	10	844	Nov. 29/29	to Y. Yamazaki
	Sanmiya	Koichiro	2222 Dundas St., Vancouver.	Brewer	50			
	Sanmiya	Morio	2222 Dundas St., Vancouver.	Housewife	1935			
	Wilson	Stanley Norman	635 Hoy St., Burnaby B. C.	Clerk		1141	Nov. 29/29	to Y. Yamazaki
	Adami	M.	2222 Dundas St., Vancouver.	Merchant	30			
	Yamazaki	Yasishu	215 Cordova St., E. Vancouver.	Publisher	1985			
				Total.....	4010			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "Frank A. Jackson"
President

RECORD
In the Supreme
Court of British
Columbia
Exhibit No. 25
Annual
Reports
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
(Contd.)

RECORD

EXHIBIT No. 29

*In the Supreme
Court of British
Columbia*

Phone Highland 1132

Office and Brewery
326 Woodland Drive

Exhibit No. 29
Letter
S. N. Wilson
to Fred
Norman
Oct. 27, 1924

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,

Vancouver, B.C., Oct. 27, 1924.

P/A to F. Norman from S. N. Wilson

To Fred Norman, Esq.,
Fort Langley, B. C.

I herewith make and appoint you my lawful attorney during ¹⁰
my absence to the United States insofar as the business of the
Vancouver Malt & Sake Brewing Co., Ltd. is concerned. Such
power of attorney to constitute all the powers and privileges I
now enjoy, as to voting and having a director's say in the manage-
ment of the company. You will have unqualified power to do and
act as you see fit with my holding in the above company.

Witness as to signature

J. B. WADE

S. N. WILSON

S. C. 437/32
Supreme Court of B.C.
Vancouver Registry
Exhibit No. 29
Vancouver Breweries vs.
Vancouver Malt & Saki
Puf in by "D" Date June 1st, 1932
"F. T. H." Registrar.

EXHIBIT No. 30

S. N. Wilson,
554 Market St.

San Francisco, Calif.

RECORD

*In the Supreme
Court of British
Columbia*

Dear Sanmiya:

Just a few lines to ask you how you are getting along. Would appreciate hearing from you soon. I hope things are going a little better than they were. Everything is fine with me. When writing you can write in Japanese if you wish as I can get it translated here. I don't know how you are on writing in English.

I have heard thru confidential sources that the Consolidated Exporters may be considering the purchase of the sake co. plant. They are now making or trying to make beer out of rice so I thought I would let you know about it. You may be able to get a good price for it if you handle the matter right.

Let me hear from you as soon as possible.

Yours sincerely,

"S. N. WILSON."

S. C. 437/32

20 Supreme Court of B.C.

Vancouver Registry

Exhibit No. 30

Vancouver Breweries vs.

Vancouver Malt & Sake

Put in by "D" Date June 1st, 1932.

"F. T. H.," Registrar.

Exhibit No. 30
Letter
S. N. Wilson
to K. Sanmiya
Undated

RECORD

EXHIBIT No. 31

*In the Supreme
Court of British
Columbia*

Office: Seymour 3353
Residence: Kerr. 746 Y

921 Birks Building
718 Granville Street

Exhibit No. 31
Letter
F. A. Jackson
to Fred Norman
Jan. 13, 1925

FRANK A. JACKSON
Barrister and Solicitor
Notary Public

Vancouver, B.C.,
Canada

13th January, 1925. 10

Fred. Norman, Esq.,
Derby Farm,
Fort Langley, B. C.

Dear Sir,

Re: Vancouver Malt & Sake Brewing Co. Ltd.

I would have written you before, but Mr. Sanmiya was busy and so I could not get the necessary information. However, I have now heard from him, and these figures are outside of a few odd dollars either way virtually correct. Monies owing are as follows:

Tanks	\$210.00	20
Bottles	240.00	
Corks	150.00	
Old rice account	390.00	
Rent	100.00	
Bonding company	25.00	
Hardware	25.00	
Wages to help	450.00	
Yamasaki (money loaned)	450.00	
Adami (money loaned)	300.00	30
Magoto (money loaned)	400.00	
Sundry cash paid by Sanmiya	500.00	
Current rice account	450.00	
	<hr/>	
	\$3690.00	

In addition to this there is the matter of Sanmiya's wages from March 1924, but this item could no doubt be satisfactorily adjusted because there was a long time that Sanmiya was not doing anything. There is also a bill which I would have against the Company for legal services. 40

There is in the tanks 100 cases of new sake, which is worth \$21.00 per case, and there is further new sake on the way. The cost price of the tanks on hand, which Mr. Sanmiya tells me can be used for all purposes except storing sake, was \$1200.00, and in addition there is other equipment about the place to the value of \$600.00.

FAJ/D

Yours truly,

“FRANK A. JACKSON”

RECORD
 In the Supreme
 Court of British
 Columbia

Exhibit No. 31
 Letter
 F. A. Jackson
 to Fred Norman
 Jan. 13, 1925
 (Contd.)

S. C. 437/32
 10 Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 31
 Vancouver Breweries vs.
 Vancouver Malt & Sake
 Put in by “D” Date June 1st, 1932.
 “F. T. H.,” Registrar.

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 26
Annual Report
Vancouver
Breweries
Ltd.
April 28, 1927

EXHIBIT No. 26

Form 14

“COMPANIES ACT”
(Section 122)

Certificate No. 1590

ANNUAL REPORT

Summary of share capital and shares of Vancouver Breweries, Limited, Vancouver, B.C., made up to the 28th day of April, 1927 (being the day after the date of the First Ordinary General Meeting in 1927).

10

Nominal share capital \$250,000.00 divided into 2500 ordinary shares of.....	\$100.00 each
Total number of shares* taken up to the said 28th day of April, 1927 (which number must agree with the total shown in the list as held by existing members)— Ordinary	2500
Number of shares issued subject to payment wholly in cash—Ordinary	5
Number of shares issued as fully paid up otherwise than in cash—Ordinary	2495 20
† There has called up on each of the said 5 ordinary shares	\$ 100.00
Total amount of calls received, including payments on application and allotment.....	\$ 500.00
Total amount (if any) agreed to be considered as paid on 2495 shares which have been issued as fully paid up otherwise than in cash.....	\$249,500.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly. 30

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

Full names, Addresses and Occupations of the Persons who are the Directors of Vancouver Breweries, Limited, on the said 28th, day of April, 1927.

RECORD
In the Supreme
Court of British
Columbia

Henry Reifel, Brewer, 1451 Angus Drive, Vancouver, B.C.

Macdonald Marling, Merchant, 915 Hastings St. W., “

George Conrad Reifel, Brewer, 4149 Angus Drive,

Exhibit No. 26
Annual Report
Vancouver
Breweries Ltd.
April 28, 1927
(Contd.)

Balance sheet made up to the 31st day of December, 1926, containing the particulars of the capital, liabilities, and assets of the company, and signed by the company's auditor.

10 **VANCOUVER BREWERIES LIMITED**

Balance Sheet as at December 31, 1926

Assets

License, trade marks and goodwill.....\$250,000.00

Liabilities

Capital Stock:

Authorized and Issued—

2,500 shares of \$100.00 each.....\$250,000.00

“GEORGE C. REIFEL” } Directors
“M. MARLING” }

20

PRICE, WATEHOUSE & CO.

Chartered Accountants

Certified a true copy
April 6th, 1932
“H. G. GARRETT”
Registrar of Companies

Original filed and regis-
tered the 13th day of
May, 1927
“H. G. GARRETT”
Registrar of Companies
S. C. 437/32.

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 26

30 Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by “D” Date June 1st, 1932
“F. T. H.” Registrar

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Vancouver Breweries Limited, on the 28th day of April, 1927, and of persons who have held shares therein at any time since the date of the last return or (in the case of a first return) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held.

Folio in register ledger containing Particulars	FULL NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES		REMARKS
	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*‡	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.	
					Num-ber‡	Date of registration of transfer†	
10	Reifel	Henry	1451 Angus Ave., Vancouver, B.C.	Brewer	1		
14	British Columbia Breweries (1918 Limited)		11th Ave. & Yew St. Vancouver, B.C.	Inc. Coy.	2495		
15	Ross	John C.	823 Hastings St. W. Vancouver, B.C.	Broker	1		
16	Marling	Macdonald	915 Hastings St., W. Vancouver, B.C.	Merchant	1		
17	Twitney	George Wm.	6692 Angus Drive Vancouver, B.C.	Secretary	1		
18	Reifel	George Conrad	4149 Angus Drive Vancouver, B.C.	Brewer	1		
				Total	2500		

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "Geo. Wm. Twitney"
 Secretary

EXHIBIT No. 27

Form 14

"COMPANIES ACT"
(Section 122)

ANNUAL REPORT

Summary of share capital and shares of Canadian Brewing & Malting Company, Limited, Vancouver, B.C., made up to the 28th day of April, 1927 (being the day after the date of the First Ordinary General Meeting in 1927).

RECORD

*In the Supreme
Court of British
Columbia*Exhibit No. 27
Annual Report
Canadian
Brewing &
Malting Co.,
Ltd.
April 28, 1927

1 ⁰	Nominal share capital \$250,000.00 divided into 2500 ordinary shares of.....	\$100.00 each
	Total number of shares* taken up to the said 28th day of April, 1927 (which number must agree with the total shown in the list as held by existing members)— Ordinary	2000
	Number of shares issued subject to payment wholly in cash—Ordinary	5
	Number of shares issued as fully paid up otherwise than in cash—Ordinary	1995
2 ⁰	† There has called up on each of the said 5 ordinary shares	\$ 100.00
	Total amount of calls received, including payments on application and allotment.....	\$ 500.00
	Total amount (if any) agreed to be considered as paid on 1995 shares which have been issued as fully paid up otherwise than in cash.....	\$199,500.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

RECORD
In the Supreme
Court of British
Columbia

Full names, Addresses and Occupations of the Persons who are the directors of Canadian Brewing and Malting Company, Limited, on the said 28th day of April, 1927.

Exhibit No. 27
Annual Report
Canadian
Brewing &
Malting Co.,
Ltd.
April 28, 1927
(Contd.)

Henry Reifel, Brewer, 1451 Angus Drive, Vancouver, B.C.
Macdonald Marling, Merchant, 915 Hastings St. W., “
George Conrad Reifel, Brewer, 4149 Angus Drive “

Balance sheet made up to the 31st day of December, 1926, containing the particulars of the capital, liabilities, and assets of the company, and signed by the company's auditor.

CANADIAN BREWING & MALTING COMPANY
LIMITED

10

Balance Sheet as at December 31, 1926

Assets

License, trade marks and goodwill.....\$200,000.00

Liabilities

Capital Stock:

Authorized—

2,500 shares of \$100.00 each.....\$250,000.00

Issued—

2,000 shares of \$100.00 each.....\$200,000.00

“GEORGE C. REIFEL” } Directors 20
“M. MARLING” }

PRICE, WATERHOUSE & CO.

Chartered Accountants

Certified a true copy
April 6th, 1932
“H. G. GARRETT”
Registrar of Companies

Original filed and registered the 13th day of
May, 1927
“H. G. GARRETT”
Registrar of Companies
S. C. 437/32.

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 26

30

Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by “D” Date June 1st, 1932
“F. T. H.” Registrar

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Canadian Brewing & M alting Company, Limited, Vancouver, B.C., on the said 28th day of April, 1927, and of persons who have held shares therein at any time since the date of the last Return, or (in the case of a first return) since the date of incorporation, showing their names, addresses, and occupations, and an account of the shares so held.

FULL NAMES, ADDRESSES AND OCCUPATIONS					ACCOUNT OF SHARES			
Folio in register ledger containing Particulars	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		REMARKS
						Num-ber‡	Date of registration of transfer†	
9	Reifel	Henry	1451 Angus Ave., Vancouver, B.C.	Brewer	1			
14	British Columbia Breweries (1918 Limited)		11th Ave. & Yew St. Vancouver, B.C.	Inc. Coy.	1995			
15	Ross	John C.	823 Hastings St. W. Vancouver, B.C.	Broker	1			
16	Marling	Macdonald	915 Hastings St., W. Vancouver, B.C.	Merchant	1			
17	Twitney	George Wm.	6692 Angus Drive Vancouver, B.C.	Secretary	1			
18	Reifel	George Conrad	4149 Angus Drive Vancouver, B.C.	Brewer	1			
				Total.....	2000			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "Geo. Wm. Twitney"
Secretary

RECORD
In the Supreme Court of British Columbia
Exhibit No. 27
Annual Report
Canadian Brewing & M alting Co., Ltd.
April 28, 1927
(Contd.)

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 27
Annual Report
Canadian
Brewing &
Malting Co.,
Ltd.
April 24, 1928

Form 14

“COMPANIES ACT”
(Section 122)

Certificate No. 1588 (1910)

ANNUAL REPORT

Summary of share capital and shares of Canadian Brewing & Malting Company, Limited, Vancouver, B.C., made up to the 24th day of April, 1928 (being the day after the date of the First Ordinary General Meeting in 1928).

Nominal share capital \$250,000.00 divided into 2500 ordinary shares of.....	\$100.00 each	10
Total number of shares* taken up to the said 24th day of April, 1928 (which number must agree with the total shown in the list as held by existing members)— Ordinary		2000
Number of shares issued subject to payment wholly in cash—Ordinary		5
Number of shares issued as fully paid up otherwise than in cash—Ordinary		1995
†There has called up on each of the said 5 ordinary shares	\$ 100.00	20
Total amount of calls received, including payments on application and allotment.....	\$ 500.00	
Total amount (if any) agreed to be considered as paid on 1995 shares which have been issued as fully paid up otherwise than in cash.....	\$199,500.00	

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly. 30

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

Full names, Addresses and Occupations of the Persons who are the directors of Canadian Brewing and Malting Company, Limited, on the said 24th day of April, 1928.

RECORD
In the Supreme
Court of British
Columbia

Henry Reifel, Brewer, 1451 Angus Drive, Vancouver, B.C.

Macdonald Marling, Merchant, 915 Hastings St. W., “

George Conrad Reifel, Brewer, 4149 Angus Drive,

Signature “N. C. K. WILLS”
Secy.-treas.

Exhibit No. 27
Annual Report
Canadian
Brewing &
Malting Co.,
Ltd.
April 24, 1928
(Contd.)

10 Balance sheet made up to the 31st day of December, 1927, containing the particulars of the capital, liabilities, and assets of the company, and signed by the company's auditor.

CANADIAN BREWING & MALTING COMPANY
LIMITED

Balance Sheet as at December 31, 1927

Assets

License, trade marks and goodwill.....\$250,000.00

Liabilities

Capital Stock:

20 Authorized—
2,500 shares of \$100.00 each.....\$250,000.00
Issued—
2,000 shares of \$100.00 each.....\$200,000.00

“HENRY REIFEL” } Directors
“M. MARLING” }

PRICE, WATEHOUSE & CO.
Chartered Accountants

30 Certified a true copy
April 6th, 1932
“H. G. GARRETT”
Registrar of Companies

Original filed and registered the 8th day of
May, 1928
“H. G. GARRETT”
Registrar of Companies

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in Canadian Brewing & Malting Company, Limited, Vancouver, B.C., on the said 24th day of April, 1928, and of persons who have held shares therein at any time since the date of the last Return, or (in the case of a first return) since the date of incorporation, showing their names, addresses, and occupations, and an account of the shares so held.

Folio in register ledger containing Particulars	FULL NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES		REMARKS	
	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		
						Num-ber‡		Date of registration of transfer†
9	Reifel	Henry	1451 Angus Ave., Vancouver, B.C.	Brewer	1			
14	British Columbia Breweries (1918 Limited)		11th Ave. & Yew St. Vancouver, B.C.	Inc. Coy.	1995			
15	Ross	John C.	823 Hastings St. W. Vancouver, B.C.	Broker	1			
16	Marling	Macdonald	915 Hastings St., W. Vancouver, B.C.	Merchant	1			
17	Twitney	George Wm.	6550 Angus Drive Vancouver, B.C.	Secretary	1			
18	Reifel	George Conrad	4149 Angus Drive Vancouver, B.C.	Brewer	1			
				Total	2000			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "N. C. WILLS"
 Secy- Treas.

Form 14

"COMPANIES ACT"
(Section 122)

Certificate No. 1590

ANNUAL REPORT

RECORD

*In the Supreme
Court of British
Columbia*Exhibit No. 27
Annual Report
Vancouver
Breweries Ltd.
April 24, 1928

Summary of share capital and shares of Vancouver Breweries, Limited, Vancouver, B.C., made up to the 24th day of April, 1928 (being the day after the date of the First Ordinary General Meeting in 1928).

10	Nominal share capital \$250,000.00 divided into 2500 ordinary shares of.....	\$100.00 each
	Total number of shares* taken up to the said 24th day of April, 1928 (which number must agree with the total shown in the list as held by existing members)—	
	Ordinary	2500
	Number of shares issued subject to payment wholly in cash—Ordinary	5
	Number of shares issued as fully paid up otherwise than in cash—Ordinary	2495
20	† There has called up on each of the said 5 ordinary shares	\$ 100.00
	Total amount of calls received, including payments on application and allotment.....	\$ 500.00
	Total amount (if any) agreed to be considered as paid on 2495 shares which have been issued as fully paid up otherwise than in cash.....	\$249,500.00

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122

30 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

RECORD
*In the Supreme
 Court of British
 Columbia*

Full names, Addresses and Occupations of the Persons who are the directors of Vancouver Breweries Limited, on the said 24th day of April, 1928.

Exhibit No. 27
 Annual Report
 Vancouver
 Breweries Ltd.
 April 24, 1928
 (Contd.)

Henry Reifel, Brewer, 1451 Angus Drive, Vancouver, B.C.

Macdonald Marling, Merchant, 915 Hastings St. W., “

George Conrad Reifel, Brewer, 4149 Angus Drive “

Signature “N. C. K. WILLS”
 Secy.-treas.

Balance sheet made up to the 31st day of December, 1927, containing the particulars of the capital, liabilities, and assets of the company, and signed by the company's auditor. 10

VANCOUVER BREWERIES LIMITED

Balance Sheet as at December 31, 1927

Assets

License, trade marks and goodwill.....\$250,000.00

Liabilities

Capital Stock:

Authorized and Issued—

2,500 shares of \$100.00 each.....\$250,000.00

“HENRY REIFEL” } Directors 20
 “M. MARLING” }

PRICE, WATERHOUSE & CO.

Chartered Accountants

Certified a true copy
 April 6th, 1932
 “H. G. GARRETT”
 Registrar of Companies

Original filed and registered the 8th day of
 May, 1928
 “H. G. GARRETT”
 Registrar of Companies

Registrar of Companies
 (SEAL)

British Columbia 30

LIST OF PERSONS holding shares in Vancouver Breweries, Limited, on the said 24th day of April, 1928, and of persons who have held shares therein at any time since the date of the last return, or in the case of a first return) since the date of incorporation, showing their names, addresses, and occupation, and an account of the shares so held.

FULL NAMES, ADDRESSES AND OCCUPATIONS					ACCOUNT OF SHARES			
Folio in register ledger containing Particulars	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return*†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		REMARKS
						Number‡	Date of registration of transfer†	
	Reifel	Henry	1451 Angus Ave., Vancouver, B.C.	Brewer	1			
	British Columbia Breweries (1918 Limited)		11th Ave. & Yew St. Vancouver, B.C.	Inc. Coy.	2495			
	Ross	John C.	823 Hastings St. W. Vancouver, B.C.	Broker	1			
	Marling	Macdonald	915 Hastings St., W. Vancouver, B.C.	Merchant	1			
	Twitney	George Wm.	6650 Angus Drive, Vancouver, B.C.	Secretary	1			
	Reifel	George Conrad	4149 Angus Drive Vancouver, B.C.	Brewer	1			
			Total		2500			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "N. C. WILLS"
Secy- Treas.

RECORD
In the Supreme Court of British Columbia
Exhibit No. 27
Annual Report
Vancouver Breweries Ltd.
April 24, 1928
(Contd.)

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 27
Annual Report
Vancouver
Breweries
Ltd.
July 17, 1929

Form 14

“COMPANIES ACT”
(Section 122)

Certificate No. 1590

ANNUAL REPORT

of Vancouver Breweries Limited, made up to the seventeenth day of July, 1929 (being the day after the date of the adjourned First Ordinary General Meeting in 1929).

Nominal share capital \$250,000.00 divided into 2500 ordinary shares of.....	\$100.00 each	10
Total number of shares* taken up to the said 17th day of July, 1929 (which number must agree with the total shown in the list as held by existing members)— Ordinary		2500
Number of shares issued subject to payment wholly in cash—Ordinary		5
Number of shares issued as fully paid up otherwise than in cash—Ordinary		2495
†There has been called up on each of the said 5 ordinary shares	\$ 100.00	20
Total amount of calls received, including payments on application and allotment.....	\$ 500.00	
Total amount (if any) agreed to be considered as paid on 2495 shares which have been issued as fully paid up otherwise than in cash.....	\$249,500.00	

* Where there are shares of different classes or amounts (e.g., Preference and Ordinary, or \$10 or \$5), state the numbers and nominal values separately. If share warrants have been issued, the particulars required by Section 122 must be included in this form, and if the capital consists of stock not divided into shares, the form must be altered accordingly.

† Where various amounts have been called, or there are shares of different classes, state them separately.

‡ Include what has been received on forfeited, as well as on existing shares.

30

Full names, Addresses and Occupations of the Persons who are the directors of Vancouver Breweries Limited, on the said 17th day of July, 1929.

RECORD
In the Supreme
Court of British
Columbia

Henry Reifel, Brewer, 1451 Angus Drive, Vancouver, B.C.

Macdonald Marling, Merchant, 915 Hastings St. W., “

George Conrad Reifel, Brewer, 4149 Angus Drive,

Exhibit No. 27
Annual Report
Vancouver
Breweries
Ltd.
July 17, 1929
(Contd.)

Balance sheet made up to the 31st day of December, 1928, containing the particulars of the capital, liabilities, and assets of the company, and signed by the company's auditor.

10 VANCOUVER BREWERIES LIMITED

Balance Sheet as at December 31, 1928

Assets

License, trade marks and goodwill.....\$250,000.00

Liabilities

Capital Stock:

Authorized and Issued—
2,500 shares of \$100.00 each.....\$250,000.00

PRICE, WATERHOUSE & CO.

Chartered Accountants

20 Certified a true copy
April 6th, 1932
“H. G. GARRETT”
Registrar of Companies

Original filed and registered the 9th day of
August, 1929
“H. G. GARRETT”
Registrar of Companies

Registrar of Companies
(SEAL)
British Columbia

LIST OF PERSONS holding shares in the company and of persons who have held shares therein at any time since the date of the last report, or (in the case of a first report) since the date of incorporation, showing their full names, addresses, and occupations, and an account of the shares so held, including the dates of forfeitures and cancellations.

(Note—If there are more than one hundred members and the names are not arranged in alphabetical order, there must be annexed an alphabetical list of such names).

FULL NAMES, ADDRESSES AND OCCUPATIONS					ACCOUNT OF SHARES		REMARKS	
Folio in register ledger containing Particulars	Surname	Christian Name	ADDRESS	Occupation	*Number of shares held by existing members at date of return**†	†Particulars of shares transferred by persons who are still members, and persons who have ceased to be members.		
						Num-ber‡		Date of registration of transfer‡
	Reifel	Henry	1451 Angus Ave., Vancouver, B.C.	Brewer	1			
	British Columbia (1918 Limited)	Breweries	11th Ave. & Yew St. Vancouver, B.C.	Inc. Coy.	2495			
	Ross	John C.	823 Hastings St. W. Vancouver, B.C.	Broker	1			
	Marling	Macdonald	915 Hastings St., W. Vancouver, B.C.	Merchant	1			
	Twitney	George Wm.	6650 Angus Drive, Vancouver, B.C.	Secretary	1			
	Reifel	George Conrad	4149 Angus Drive Vancouver, B.C.	Brewer	1			
			Total		2500			

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout, so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each Transfer must be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, and the name of the transferee should be inserted in the "Remarks" column, immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns must be subdivided so that the number of each class held, or transferred, may be shown separately.

(Signature) "M. MARLING"
 Director

EXHIBIT No. 20

CANADA EXCISE

Local Licence No. 4

General Number 5686

INLAND REVENUE

(Coat of Arms)

Registered No. of Brewery 4

Bb. 2

BREWER'S LICENSE

For the Year 1925-1926

RECORD

*In the Supreme
Court of British
Columbia*Exhibit No. 20
Brewer's
License
No. 5686
April 1, 1925

TO ALL WHOM IT MAY CONCERN

10 This license is granted to Vancouver Malt and Sake Brew-
ing Co., Ltd. of the City of Vancouver, in the County of Vancouver
in the Province of British Columbia to carry on the trade or busi-
ness of a Brewer of Malt Liquors in the brewery situated at
326 Woodland Drive, Vancouver, B.C. and more particularly de-
scribed in the application made for this License under date
March 31st, 1925 he having paid the License fee of Fifty Dollars
thereon, conformably to the provisions of "The Inland Revenue
Act."

20 This License to be in force from the First day of April one
thousand nine hundred and Twenty Five until the thirty-first
day of March, one thousand nine hundred and Twenty Six pro-
vided the said Licensee shall conform to the requirements of the
said Act, and shall also comply with all laws, regulations and
orders made by any competent authority whatever.

Inland Revenue Division of Vancouver, B.C.
Granted at Vancouver, B.C., this First day of
April, 1925.

"G. A. ALLEN,"
Collector of Inland Revenue

30 Local License No. 4, General Number 1590, April 1st, 1926.
Local License No. 2, General Number 5396, April 1st, 1928.
Local License No. 3, General Number 5400, April 1st, 1929.
Local License No. 2, General Number 5403, April 1st, 1930.
Local License No. 3, General Number 5406, May 12th, 1931.

All of the same form as Local License No. 4, General Number 5686
printed herewith, with the exception that the place of business is
shewn as 2235 Triumph Street, and forming part of Exhibit No. 20.

Supreme Court of B.C.

Vancouver Registry

S. C. 437/32.

40 Exhibit No. 20

Vancouver Breweries vs.

Vancouver Malt & Sake

Put in by "P" Date June 1st, 1932

"F. T. H," Registrar

RECORD

In the Supreme
Court of British
Columbia

Exhibit No. 12
Agreement
Dec. 5, 1927

EXHIBIT No. 12

Agreement dated December 5, 1927

19/4/32
2
THIS AGREEMENT made the 5th day of December, A.D. 1927

BETWEEN:

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED
whose registered office is situate in the
City of Vancouver, Province of British Columbia,
hereinafter called the "Vendor"

OF THE FIRST PART

AND

VANCOUVER BREWERIES LIMITED
a body corporate having its registered office
at the said City of Vancouver, its successors and
assigns,
hereinafter called the "Purchaser"

OF THE SECOND PART

WHEREAS the Vendor is the holder of a brewers license
under the Excise Act and is engaged in the manufacture of
Sake in the Province of British Columbia,

AND WHEREAS the Purchaser is desirous of purchasing
from the Vendor the good-will of the said brewers license
and any renewal or renewals thereof so far as the same relates
to the manufacture and sale of beer, ale, porter or lager beer,

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consid-
eration of the premises and of the sum of \$15,000.00
now paid by the Purchaser to the Vendor (the receipt whereof
is hereby acknowledged) the Vendor has bargained, sold, trans-
ferred and assigned unto the purchaser, and does hereby bargain,
sell, transfer and assign to the said Purchaser all its right,
title, interest, claim and demand in, to or out of the goodwill
of the said brewers license or any renewal or renewals thereof,
except insofar as the same relates to the manufacture, sale and
distribution of Sake,

AND the Vendor for itself, its successors and assigns
covenants and agrees with the Purchaser that during a period
of Fifteen (15) years from the date hereof it will not engage

EXHIBIT No. 12

Agreement dated December 5, 1927

RECORD
In the Supreme
Court of British
Columbia

Exhibit No. 12
Agreement
Dec. 5, 1927
(Contd.)

in nor carry on the business of manufacturing, brewing,
selling or disposing of beer, ale, porter or lager beer,
and will not brew, manufacture or sell any article or
articles made in imitation thereof other than Sake, either
by itself or through its servants or agents or otherwise,

AND the Vendor further covenants that if at any
time it shall sell its license to brew or any renewal or
renewals thereof any such sale shall be made subject to the
foregoing conditions,

AND the Vendor further covenants that at no time
during the said period of Fifteen (15) years will it be
concerned directly or indirectly either as principal,
agent, manufacturer servant, financier or otherwise
in any brewing business other than that of Sake, and in
event of any breach of the covenants herein contained
will pay to the Purchaser the sum of \$15,000.00
to be recoverable upon every breach of this covenant as
agreed in liquidated damages,

IN WITNESS WHEREOF the parties hereto have
set their hands and seals.

The corporate seal of the
party of the first part was
hereto affixed in the presence
of:

*Vancouver Malt & Sake Brewing
Company Limited*

per K. Sanniya

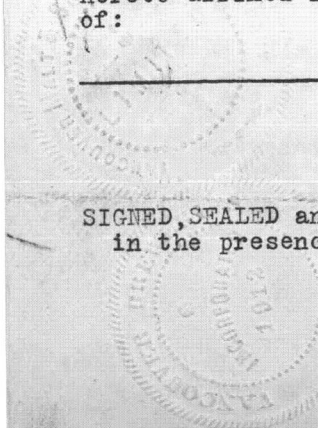
*per James J. [unclear]
Director
Vancouver Brewery Limited*

*per Henry [unclear]
Director*

*M. Martin
Director*

SIGNED, SEALED and DELIVERED
in the presence of:

W.S. [unclear]



RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 13
Carbon Copy
Agreement
Dec. 5, 1927

EXHIBIT No. 13

Carbon Copy of Agreement dated December 5, 1927

THIS AGREEMENT made the 5th day of December, A.D. 1927

BETWEEN:

VANCOUVER MALT & SAKE BREWING COMPANY LIMITED
whose registered office is situate in the
City of Vancouver, Province of British Columbia,
hereinafter called the "Vendor"

OF THE FIRST PART

AND

WST
VANCOUVER BREWERIES LIMITED
a body corporate having its registered office
at the said City of Vancouver, its successors
and assigns, hereinafter called the "Purchaser"

OF THE SECOND PART

WHEREAS the Vendor is the holder of a brewers license
under the Excise Act and is engaged in the manufacture of
Sake in the Province of British Columbia,

AND WHEREAS the Purchaser is desirous of purchasing
from the Vendor the good-will of the said brewers license
and any renewal or renewals thereof so far as the same relates
to the manufacture and sale of beer, ale, porter or lager beer,

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consid-
eration of the premises and of the sum of \$15,000.00
now paid by the Purchaser to the Vendor (the receipt whereof
is hereby acknowledged) the Vendor has bargained, sold, trans-
ferred and assigned unto the purchaser, and does hereby bargain,
sell, transfer and assign to the said Purchaser all its right,
title, interest, claim and demand in, to or out of the goodwill
of the said brewers license or any renewal or renewals thereof,
except insofar as the same relates to the manufacture, sale and
distribution of Sake,

AND the Vendor for itself, its successors and assigns
covenants and agrees with the Purchaser that during a period
of Fifteen (15) years from the date hereof it will not engage

EXHIBIT No. 13

Carbon Copy of Agreement dated December 5, 1927

RECORD

In the Supreme Court of British Columbia

Exhibit No. 13
Carbon Copy Agreement
Dec. 5, 1927
(Contd.)

in nor carry on the business of manufacturing, brewing, selling or disposing of beer, ale, porter or lager beer, and will not brew, manufacture or sell any article or articles made in imitation thereof other than Sake, either by itself or through its servants or agents or otherwise,

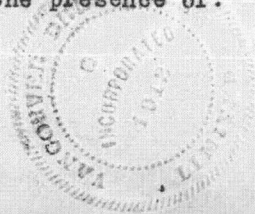
AND the Vendor further covenants that if at any time it shall sell its license to brew or any renewal or renewals thereof any such sale shall be made subject to the foregoing conditions,

AND the Vendor further covenants that at no time during the said period of Fifteen (15) years will it be concerned directly or indirectly either as principal, agent, manufacturer servant, financier or otherwise in any brewing business other than that of Sake, and in event of any breach of the covenants herein contained will pay to the Purchaser the sum of \$15,000.00 to be recoverable upon every breach of this covenant as agreed in liquidated damages,

IN WITNESS WHEREOF the parties hereto have set their hands and seals.

The corporate seal of the party of the first part was hereto affixed in the presence of:

SIGNED, SEALED and DELIVERED in the presence of:



Vancouver Malt & Sake
Brewing Company Limited
R. K. Samiya
R. H. ...
Vancouver Breweries Limited
J. W. ...
M. ...

RECORD

EXHIBIT No. 16

*In the Supreme
Court of British
Columbia*

Vancouver, B. C., December 5, 1927.

Exhibit No. 16
Letter
H. Reifel to
K. Sanmiya
Dec. 5, 1927

K. Sanmiya, Esq.,
c/o Vancouver Malt & Sake Brewing Company Limited,
Vancouver, B.C.

Dear Sir:

In consideration of the transfer of the good-will of the Vancouver Malt & Sake Brewing Company Limited to the Vancouver Breweries Limited as per agreement of even date, I hereby undertake to assist you in every reasonable way in promoting the sale of your Sake to the Liquor Control Board. ¹⁰

Yours truly,

"HENRY REIFEL"

S. C. 437/32
Supreme Court of B. C.
Vancouver Registry
Exhibit No. 16
Vancouver Breweries vs.
Vancouver Malt & Sake

Put in by "P" Date June 1st, 1932
"F. T. H.," Registrar.

20

Exhibit No. 33
Photostatic
Copies of
Signatures
Dec. 5, 1927

EXHIBIT No. 33

PHOTOSTATIC COPIES OF SIGNATURES

Appearing on Exhibits No. 12 and No. 13,
dated December 5th, 1927

(Enclosed in pocket in back of Appeal Book)

EXHIBIT No. 6

Dec. 6, 1927.

K. Sanmiya, Esq.,
 c/o Vancouver Malt & Sake Brewing Co.,
 2235 Triumph Street,
 City

Dear Sir:

We beg to enclose herewith executed copy of the agreement
 with the Vancouver Breweries Limited duly sealed, which you
 10 may keep.

Will you kindly send us the copy which you have so that we
 may have it completed in the same manner.

Yours truly,

HST/EW
 Encl.

Pattullo & Tobin
 Per_____

S. C. 437/32
 Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 6
 20 Vancouver Breweries vs.
 Vancouver Malt & Sake
 Put in by "P" Date June 1st, 1932.
 "F. T. H." Registrar.

RECORD

*In the Supreme
 Court of British
 Columbia*

Exhibit No. 6
 Letter
 Pattullo &
 Tobin to
 K. Sanmiya
 Dec. 6, 1927

RECORD

EXHIBIT No. 10

*In the Supreme
Court of British
Columbia*Exhibit No. 10
Letter
Pattullo &
Tobin to
F. A. Jackson
June 10, 1931**PATTULLO & TOBIN**
Barristers, Solicitors, etc.Henry Seymour Tobin
Gilbert Cecil Tarr

Cable Address: "Patob"

Phone: Seymour 9544

File 2473

510 Hastings Street West
Vancouver B.C.

10th June, 1931.

Frank A. Jackson, Esq.,
Barrister,
718 Granville Street,
Vancouver, B. C.

10

Dear Sir:

Re Vancouver Malt & Sake Brewing Company, Limited.

Confirming the conversation between the writer and yourself this morning, this is to remind you, as a Director of Vancouver Malt & Sake Brewing Company Limited, of the existence of an agreement dated the 5th day of December 1927, made between that Company and Vancouver Breweries Limited, by the terms of which Vancouver Malt & Sake Brewing Company Limited, in consideration of \$15,000.00 transferred to Vancouver Breweries Limited, all its interest and goodwill in its brewers' licence and any renewal or renewals thereof, except in so far as the same related to the manufacture, sale and distribution of sake, and further covenanted on behalf of itself, its successors and assigns, that for a period of fifteen years it would not engage in nor carry on the business of manufacturing, brewing, selling or disposing of beer, ale, porter or lager beer, etc.

From our conversation referred to, we gather that there is no intention on the part of the Company to sell any right to brew except in connection with the manufacture of sake. We trust that, in the event of a sale being made by Vancouver Malt & Sake Brewing Company Limited, its officers and directors will call the attention of any purchaser to the covenant in the agreement to the following effect:

And the Vendor further covenants that if at any time it shall sell its licence to brew and any renewal or renewals thereof any such sale shall be made subject to the conditions above referred to.

Thanking you for your courtesy in the matter.

Yours truly,
PATTULLO & TOBIN,
 Per: "H. S. TOBIN"

HST/G

S. C. 437/32

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 10
 Vancouver Breweries vs.
 10 Vancouver Malt & Sake
 Put in by "P" Date June 1st, 1932
 "F. T. H." Registrar.

RECORD
 In the Supreme
 Court of British
 Columbia
 Exhibit No. 10
 Letter
 Pattullo &
 Tobin to
 F. A. Jackson
 June 10, 1931
 (Contd.)

EXHIBIT No 34

MEMORANDUM OF AGREEMENT made and entered into this
 15th day of September, A.D. 1931:

Exhibit No. 34
 Agreement
 Sept. 15, 1931

BETWEEN:

20 MORIO SANMIYA of 2235 Triumph Street in the City
 of Vancouver, in the Province of British Columbia, act-
 ing on behalf of herself and as Administratrix of the
 Estate of Koichiro Sanmiya (Deceased); hereinafter
 called "the vendor:"

Of the first part:

AND:

I. B. HEWER of 720 Howe Street in the City of Vancou-
 ver aforesaid, agent; hereinafter called "the purchaser:"

Of the second part:

AND:

30 FRANK A. JACKSON of 718 Granville Street in the
 City of Vancouver aforesaid, Solicitor; hereinafter called
 "the said Jackson:"

Of the third part:

AND:

VANCOUVER MALT & SAKE BREWING COM-
 PANY LIMITED, a private company incorporated
 under the laws of the Province of British Columbia with
 head office at 2235 Triumph Street in the said City of
 Vancouver; hereinafter called "the said company;"

Of the fourth part:

RECORD
 In the Supreme
 Court of British
 Columbia
 Exhibit No. 34
 Agreement
 Sept. 15, 1931
 (Contd.)

WHEREAS the company is incorporated with a nominal capital of One hundred thousand dollars (\$100,000.00) divided into ten thousand (10,000) shares of Ten dollars (\$10.00) each of which Four thousand and ten (4010) shares only have been issued as fully paid:

AND WHEREAS the said company is also possessed of the Goods and Chattels described in Schedule "A" hereto and has been and is carrying on business of brewers and maltsters under licenses from the Government of the Dominion of Canada at the premises aforesaid: 10

AND WHEREAS the vendor has agreed to grant to the purchaser an option to purchase the said issued capital of the company now owned by the vendor including the ten (10) shares now registered in the name of the said Jackson:

AND WHEREAS the vendor represents that the company has no liabilities of any kind and no charges or encumbrances have been created against the assets set forth in said Schedule "A":

AND WHEREAS the said Jackson has agreed to transfer the said ten (10) shares standing in his name to the purchaser upon the exercise of the option herein contained: 20

NOW THIS AGREEMENT WITNESSETH:

1. That in consideration of the premises and of the sum of One dollar (\$1.00) of lawful money of Canada now paid by the purchaser to the vendor (the receipt whereof is hereby acknowledged) the vendor doth hereby give and grant to the purchaser the sole and exclusive right and option to purchase the said issued capital of the company including the ten (10) shares standing in the name of the said Jackson, namely four thousand and ten (4010) shares in all, at and for the price or sum of Fifty-five thousand dollars (\$55,000.00) payable on or before the 21st day of October, 30 A. D. 1931.

2. Payment of the said purchase price may be made to the credit of the vendor at the office of the Bank of Montreal, Granville Street Branch, in the City of Vancouver aforesaid with whom the said vendor and the said Jackson agree forthwith to deposit their certificates representing the said shares duly endorsed and witnessed in exchange for the said purchase monies.

3. The vendor and the company agree forthwith to apply for the transfer of the said licenses to premises to be designated by the vendor and do all necessary acts and things to comply with the provisions of the "Excise Act" in that behalf and to sign and to seal in the form prescribed by the Department of Excise all necessary documents for that purpose. 40

4. The vendor further covenants and agrees to pay any floating liabilities of the company out of the said purchase monies and indemnify and save harmless the purchaser and the company in respect thereof.

5. Upon payment of the said purchase monies the company agrees to approve of the transfer of the certificates mentioned in clause "2" hereof in favor of the purchaser or his nominees and the vendor and the said Jackson agree to resign as directors of the company at the request of the purchaser at any meeting the
 10 purchaser may require to be called for that purpose.

This agreement shall extend to and bind the parties hereto and their respective executors, administrators and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals and the common seal of the company has been hereunto affixed the day and year first above mentioned.

RECORD
 In the Supreme
 Court of British
 Columbia
 Exhibit No. 34
 Agreement
 Sept. 15, 1931
 (Contd.)

SIGNED, SEALED AND DELIVERED
 by Morio Sanmiya in the pre-
 sence of:
 "Mary Grisdale" } "M. SANMIYA"
 (L. S.)

20 SIGNED, SEALED AND DELIVERED
 by I. B. Hewer in the presence
 of:
 "Mary Grisdale" } "I. B. HEWER"
 (L. S.)

SIGNED, SEALED AND DELIVERED
 by Frank A. Jackson in the pre-
 sence of:
 "Mary Grisdale" } "FRANK A. JACKSON"
 (L. S.)

30 The Common Seal of Vancouver
 Malt & Sake Brewing Company
 Limited was hereunto affixed in
 the presence of:
 "Frank A. Jackson,"
 President
 "M. Sanmiya,"
 Director } (SEAL)

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 34
Agreement
Sept. 15, 1931
(Contd.)

SCHEDULE "A"

Referred to in agreement dated September 15th, A.D. 1931

Inventory of Sake plant and equipment of Vancouver Malt and Sake Brewing Company, Limited.

Sake in cases, 600 approximately.

Sake in tanks ready for bottling, 600 cases approximately.

Note: These figures are approximately but substantially correct.

10 vats of Japanese Cedar used for settling and fermenting, size average 1200 gallons. 10

10 dismantled fermenting tanks of B.C. wood.

3 rice steaming tanks.

2 yeast tanks of Japanese Cedar.

2 oak settling tanks, one of 1213 gallons and other of 1036 gallons.

2 water tanks.

12,000 empty bottles (approximately).

600 malt trays.

1 boiler.

1 rice washer. 20

1 motor (1 h.p.).

1 presser.

ENDORSEMENT ON EXHIBIT No. 34

Received from I. B. Hewer the sum of Fifty-five thousand dollars (\$55,000.00) in fulfilment of the purchase price mentioned in the within option dated Sept. 15/31.

"M. SANMIYA"

"M. SANMIYA

as administratrix of the estate of
Koichiro Sanmiya, deceased." 30

S. C. 437/32.

Supreme Court of B.C.

Vancouver Registry

Exhibit No. 34

Vancouver Breweries vs.

Vancouver Malt & Sake

Put in by "P" Date June 7, 1932

"F. T. H," Registrar

EXHIBIT No. 22

Minutes of a meeting of the Board of Directors of Vancouver Malt & Sake Brewing Company Limited held in the offices of Lennie & McMaster, 901 Vancouver Block, 736 Granville Street, on Friday, the 16th day of October, A. D. 1931.

Present: R. S. Lennie and I. B. Hewer.

Minutes of the meeting of the Board held this day were read and adopted.

10 On motion it was resolved that the banking account of the company be opened with the Bank of Montreal at its office on the corner of Main and Hastings Streets in the City of Vancouver, B. C. and that the signature of the manager and one director shall be sufficient authority to the bank for the payment of all monies to permit the inspection or withdrawal of any securities and to received and act upon any instructions in connection with the transactions of the company with the said bank and it was further resolved that the form of banking resolution supplied by the said bank be adopted by the company and signed by the secretary and
20 a director and forwarded to the said bank and that a copy of the said banking resolution be signed and attached to these minutes.

On motion it was resolved that Clifford Hewer, Esq., be appointed manager of the company at a monthly salary of Two hundred dollars (\$200.00).

On motion it was resolved that the company do borrow the sum of One thousand dollars (\$1,000.00) to be used as working capital pending further arrangements.

30 On motion it was resolved that the existing share certificates of One hundred dollar (\$100.) denomination be cancelled and that new shares be issued at Ten dollar (\$10.) denomination in accordance with the resolution of the shareholders.

On motion it was resolved that the transfer of all the issued shares to I. B. Hewer and R. S. Lennie be approved and that certificates be issued in respect thereof.

“I. B. HEWER”

“R. S. LENNIE”

40 Upon motion it was further resolved that Seeds Martin & Co. be appointed auditors of the company and requested to open and keep proper books of account in accordance with the provisions of the “Excise Act” (Dominion) and the “Companies Act” (Provincial).

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 22
Minutes of
Meeting
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
Oct. 16, 1931

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 22
Minutes of
Meeting
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
Oct. 16, 1931
(Contd.)

Upon Motion it was resolved that the following officers be appointed.

R. S. Lennie, President; I. B. Hewer, Vice-President; G. F. McMaster, Secretary.

The remuneration of the auditors was left in the hands of the Board.

The meeting then adjourned.

“I. B. HEWER”

“R. S. LENNIE”

S. C. 437/32 10

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 22
Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by “P” Date June 1, 1932.
“F. T. H.” Registrar.

EXHIBIT No. 7

PATTULLO & TOBIN
Barristers, Solicitors, etc.

Henry Seymour Tobin
Gilbert Cecil Tarr

Cable Address: "Patob"
Phone: Seymour 9544
File 2473

510 Hastings Street West
Vancouver, B.C.
27th October, 1931

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 7
Letter
Pattullo &
Tobin to
I. B. Hewer
Oct. 27, 1931

10 I. B. Hewer, Esq.,
c/o MacGregor & Hewer Limited,
720 Howe Street,
Vancouver, B.C.
Dear Sir:

We have been given to understand that you are interested, either directly or indirectly, in the purchase of a brewery licence standing in the name of Vancouver Malt & Sake Brewing Company Limited.

20 On behalf of Vancouver Breweries Limited, we hereby give you notice of the existence of an agreement made on the 5th day of December 1927, between Vancouver Malt & Sake Brewing Company Limited, of the first part, and Vancouver Breweries Limited, of the second part; a copy of this agreement is attached hereto for your information. From this it will be seen that the only interest which the Vancouver Malt & Sake Brewing Company Limited have to sell in any licence or renewal thereof is in so far as it relates to the brewing and disposal of Sake. Any attempt to use the said licence or any renewal thereof for any other purpose will be resisted by our client, Vancouver Breweries Limited, who will
30 take such legal steps as it may be entitled to, to enforce its rights. We trust that you will govern yourself in accordance with the terms of the said agreement so that there may be no necessity for legal action.

HST/G
Enclosure
Register

Yours truly,
PATTULLO & TOBIN
Per "H. S. TOBIN"

S. C. 437/32.

40 Supreme Court of B.C.
Vancouver Registry
Exhibit No.7
Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "D" Date June 1st, 1932
"F. T. H," Registrar

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 21
Minutes of
Meeting
Vancouver
Malt & Sake
Brewing Co.,
Ltd.
Feb. 12, 1932

EXHIBIT No. 21

Minutes of a meeting of the Board of Directors of Vancouver Malt & Sake Brewing Company Limited held in the offices of Lennie & McMaster, 901 Vancouver Block, 736 Granville Street, Vancouver, B. C., on Friday, the 12th day of February, A. D. 1932.

Present: R. S. Lennie, I. B. Hewer.

The minutes of the Board dated 16th October, A. D. 1931, were read and adopted.

Consideration was given to a letter from Pattullo & Tobin to Mr. I. B. Hewer dated 27th October, 1931, and on motion it was resolved that he reply thereto in the terms of the letter dated this day as follows:

Messrs. Vancouver Breweries Limited,
c/o Messrs. Pattullo & Tobin,
Barristers & Solicitors,
510 West Hastings St.,
Vancouver, B. C.

Dear Sirs:

I am instructed by the Board of Directors of this company to state in reference to your letter of the 27th of October last directed to the writer that I did not purchase the brewery license standing in the name of this company.

I may say, however, that prior to the receipt of your letter I did purchase shares in this company.

At the time of the purchase of such shares the Minutes of the company and its books of account were audited and there was no record of any authorization for the execution of any agreement affecting the licenses or business of the company whatever with your company.

Before I purchased shares in the said company I stipulated that its location should be changed and removed to premises I had purchased namely Lots 24 to 29 inclusive, Block 5, Subdivision "B", District Lot 182, City of Vancouver, being situate at the corner of McLean Drive and Powell Street and numbered 1455 Powell Street and in due course the licenses were transferred according to law to the said premises.

I have obtained counsel's opinion and am advised that the alleged agreement contained in the letter first mentioned, for many reasons is wholly illegal and void and I am authorized to say that the company will contest its validity at all times.

In addition to the absence of any authority for the execution of such agreement or to attach the seal thereto there is no record of the Company having received the sum of \$15,000.00 from your company, however for the purpose of avoiding litigation and without admitting but denying the said agreement and its validity I am authorized to say that if you will surrender it and execute a formal release thereof this company will pay you the sum of \$15,000.000 if the surrender is made and the release is executed within a period of thirty days from the date hereof.

- 10 I may also add that it is this company's intention to exercise all the privileges granted to it by its license regardless of the alleged agreement and to immediately proceed with the erection of a plant for that purpose."

The meeting then adjourned.

"R. S. LENNIE."

S. C. 437/32

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 21

- 20 Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932
"F. T. H." Registrar.

RECORD

*In the Supreme
Court of British
Columbia*

Exhibit No. 21
Minutes of
Meeting
Vancouver
Malt & Sake
Brewing Co.,
Feb. 12, 1932
(Contd.)

RECORD

EXHIBIT No. 8

*In the Supreme
Court of British
Columbia*Received Feb. 15, 1932.
Answered.....Office and Brewery
1445 Powell St.Exhibit No. 8
Letter
I. B. Hewer to
Vancouver
Breweries Ltd.
Feb. 13, 1932VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED,

Vancouver, B. C., February 13th, 1932

Messrs. Vancouver Breweries Limited,
c/o Messrs. Pattullo & Tobin,
Barristers & Solicitors,
510 Hastings Street West,
Vancouver, B. C.

10

Dear Sirs:

I am instructed by the Board of Directors of this company to state in reference to your letter of the 27th of October last, directed to the writer that I did not purchase the brewery license standing in the name of this company.

I may say, however, that prior to the receipt of your letter I did purchase shares in this company.

At the time of the purchase of such shares the Minutes of the company and its books of account were audited and there was no record of any authorization for the execution of any agreement affecting the licenses or business of the company whatever with your company.

Before I purchased shares in the said company I stipulated that its location should be changed and removed to premises I had purchased namely Lots 24 to 29 inclusive, Block 5 Subdivision "B," District Lot 182, City of Vancouver, being situate at the corner of McLean Drive and Powell Street, and numbered 1445 Powell Street, and in due course the licenses were transferred according to law to the said premises.

30

I have obtained counsel's opinion and am advised that the alleged agreement contained in the letter first mentioned, for many reasons is wholly illegal and void and I am authorized to say that the company will contest its validity at all times.

In addition to the absence of any authority for the execution of such agreement or to attach the seal thereto there is no record of the company having received the sum of \$15,000.00 from your company. However for the purpose of avoiding litigation and without admitting but denying the said agreement and its validity

I am authorized to say that if you will surrender it and execute a formal release thereof this company will pay you the sum of \$15,000.00 if the surrender is made and the release is executed within a period of thirty days from the date hereof.

I may also add that it is this company's intention to exercise all the privileges granted to it by its licenses regardless of the alleged agreement and to immediately proceed with the erection of a plant for that purpose.

Yours truly,

10 VANCOUVER MALT & SAKE BREWING COMPANY LIMITED

per "I. B. HEWER,"
I. B. Hewer, Vice-president

IBH/N

S. C. 437/32
Supreme Court of B. C.
Vancouver Registry
Exhibit No. 8

Vancouver Breweries vs.
Vancouver Malt & Sake

20 Put in by "D" Date June 1st, 1932
"F. T. H." Registrar.

EXHIBIT No. 9

PATTULLO & TOBIN
Barristers, Solicitors, etc.

Cable Address: "Patob"
Phone: Seymour 9544
File 2473

Henry Seymour Tobin
Gilbert Cecil Tarr

Exhibit No. 9
Letter
Pattullo &
Tobin to
I. B. Hewer
Feb. 19, 1932

510 Hastings Street West
Vancouver, B.C.

30

19th February, 1932.

I. B. Hewer, Esq.,
c/o Vancouver Malt & Sake Brewing Company Limited,
1445 Powell Street,
Vancouver, B.C.

Dear Sir:

Your letter of the 13th instant signed as Vice-President of the Vancouver Malt & Sake Brewing Company Limited, which appears to be a somewhat belated reply to our letter to you of the 27th October last, has been duly received and is acknowledged.

40

We note that you are not a purchaser of the license of the Vancouver Malt & Sake Brewing Company Limited but have merely

RECORD

In the Supreme
Court of British
Columbia

Exhibit No. 8
Letter
I. B. Hewer to
Vancouver
Breweries Ltd.
Feb. 13, 1932
(Contd.)

RECORD
 In the Supreme
 Court of British
 Columbia

Exhibit No. 9
 Letter
 Pattullo &
 Tobin to
 I. B. Hewer
 Feb. 19, 1932
 (Contd.)

become a shareholder of that Company. As, however, you appear to be a Vice-President, we beg to refer you to the agreement of the 5th day of December 1927, between your Company and the Vancouver Breweries Limited, a copy of which we sent to you with our communication of October 27th last, and also to refer you to a letter which you will no doubt find on the Company files, addressed to it and dated the 10th day of June 1931, at which date we also wrote to Mr. Frank A. Jackson, barrister, who at that time was a director of the Company. Mr. Jackson is fully familiar with the terms and circumstances under which the agreement was made as he was a director at the time, and is a signatory to the agreement which was completed in our office in his presence and that of Mr. Sanmiya, then President of the Company. 10

We are not interested in the accounting methods of the Company and are instructed to say that we can only accept your offer of \$15,000.00 as liquidated damages for any present breach and that we will expect a further payment of the sum of \$15,000.00 on each and every breach that takes place, in accordance with the terms of the agreement above referred to. Our instructions are to take the necessary legal action should such become necessary 20 in the premises.

We again particularly call your attention to the fact of the covenant of your Company reading as follows:—

“And the Vendor for itself its successors and assigns
 “covenants and agrees with the purchaser that during a
 “period of fifteen years from the date hereof it will not en-
 “gage in nor carry on the business of manufacturing, brew-
 “ing, selling or disposing of beer, ale, porter or lager beer and
 “will not brew, manufacture or sell any article or articles
 “made in imitation thereof other than sake either by itself or 30
 “through its servants or agents or otherwise.”

Yours truly,
 PATTULLO & TOBIN
 Per “H. S. TOBIN”

HST/G

Copy to Louis Cote, K.C., P. A. Sanford, G. W. Taylor.
 S. C. 437/32.

Supreme Court of B.C.
 Vancouver Registry
 Exhibit No. 9
 Vancouver Breweries vs.
 Vancouver Malt & Sake
 Put in by “D” Date June 1st, 1932
 “F. T. H,” Registrar

EXHIBIT No. 19
CANADA EXCISE

RECORD
*In the Supreme
Court of British
Columbia*

Local Licence No. 3

General Number 5409 Exhibit No. 19
Brewers
License
No. 5409
April 1, 1932

INLAND REVENUE
(Coat of Arms)

Registered No. of Brewery 3

Bb. 2

BREWER'S LICENSE
For the Year 1932-1933

TO ALL WHOM IT MAY CONCERN

10 This license is granted to Vancouver Malt and Sake Brew-
ing Co., Ltd. of the City of Vancouver, in the County of Vancouver
in the Province of British Columbia to carry on the trade or busi-
ness of a Brewer of Malt Liquors in the brewery situated at
1445 Powell Street, and more particularly described in the appli-
cation made for this License under date April 1st, 1932, he having
paid the License fee of Fifty Dollars thereon, conformably to the
provisions of "The Inland Revenue Act."

20 This License to be in force from the First day of April one
thousand nine hundred and Thirty Two until the thirty-first
day of March, one thousand nine hundred and Thirty Three pro-
vided the said Vancouver Malt and Sake Brewing Company Lim-
ited shall conform to the requirements of the said Act, and shall
also comply with all laws, regulations and orders made by any
competent authority whatever.

Inland Revenue Division of Vancouver, B.C.
Granted at Vancouver, B.C., this First day of
April, 1932.

"G. A. ALLEN,"
Collector of Inland Revenue

RECORD

ENDORSEMENT ON EXHIBIT No. 19

*In the Supreme
Court of British
Columbia*

(Coat of Arms)
Canada

Reply (if any) to be addressed to
"Commissioner of Excise"

Exhibit No. 19
Brewers
License
No. 5409
April 1, 1932
(Contd.)

DEPARTMENT OF NATIONAL REVENUE

Excise Division Refer to file No.

Ottawa, March 30th, 1932.

This license is subject to the condition, which Vancouver Malt and Sake Brewing Company, Limited, undertakes, that it will not by virtue of this license brew, manufacture, sell or dispose of beer, ale, porter or lager beer, with the exception only of Sake, until the final determination of an action commenced in the Supreme Court of British Columbia (Writ issued 8th March, 1932) between Vancouver Breweries Limited, plaintiff, and Vancouver Malt and Sake Brewing Company Limited, defendant, wherein the right of Vancouver Malt and Sake Brewing Company, Limited, to engage in or carry on the business of brewing, manufacturing, selling or disposing of beer, ale, porter, lager beer or any article or articles made in imitation thereof, other than Sake, is denied and an injunction sought, and a declaration claimed that the plaintiffs are entitled to all the benefits of this license, or until this condition is removed, withdrawn or varied by the Department of National Revenue acting through its Minister or the Commissioner of Excise. Cancellation of this license shall follow any breach of this condition or undertaking by Vancouver Malt and Sake Brewing Company Limited.

"G. W. H. TAYLOR,"

Commissioner of Excise

S. C. 437/32.

Supreme Court of B.C.

Vancouver Registry

Exhibit No. 19

Vancouver Breweries vs.

Vancouver Malt & Sake

Put in by "P" Date June 1st, 1932

"F. T. H.," Registrar

30

EXHIBIT No. 11

No. V. 437/1932

RECORD

*In the Supreme
Court of British
Columbia*

IN THE SUPREME COURT OF BRITISH COLUMBIA

BEFORE THE HONOUR-
ABLE THE CHIEF
JUSTICE IN CHAMBERS} THURSDAY, the 7th day of
} APRIL, A. D. 1932.Exhibit No. 11
Order of the
Honourable
the Chief
Justice
To examine
F. A. Jackson
April 7, 1932

BETWEEN:

VANCOUVER BREWERIES LIMITED, Plaintiff,
—and—10 VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED, Defendant.

UPON THE APPLICATION of the plaintiff, upon hearing Mr. G. C. Tarr, of counsel for the plaintiff, and upon reading the affidavit of Henry Seymour Tobin sworn the 4th day of April 1932 and filed herein and the affidavit of Gilbert Cecil Tarr sworn the 5th day of April 1932, and filed herein, and the Chamber Summons issued herein on the 5th day of April 1932, and Mr. G. F. McMaster, of counsel for the defendant, consenting;

20 IT IS ORDERED that the plaintiff be at liberty to examine Frank A. Jackson, Barrister, of Vancouver, B. C., a past officer of the defendant company, orally before the trial of this action touching the matters in question herein, pursuant to the rules in that behalf of this Honourable Court, at such time and place as the District Registrar at Vancouver, B. C., may appoint.

AND IT IS ALSO ORDERED that the costs of and incidental to this application be costs in the cause.

"AULAY MORRISON," C.J.

B.C.L.S. Vancouver Registry Checked "S. V. L." Approved:
60c. April 9, 1932

"G. F. M."

"G. C. T."

30 Entered Apr. 9, 1932.
Order Book, Vol. 157, Fol. 74.
Per "W. J. B."

"H. B."

D. D. R.

S. C. 437/32

Supreme Court of B.C.
Vancouver Registry
Exhibit No. 11Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "P" Date June 1st, 1932.

40 "F. T. H." Registrar.

RECORD

EXHIBIT No. 28

In the Supreme
Court of British
Columbia

No. V. 437/1932

IN THE SUPREME COURT OF BRITISH COLUMBIA

Exhibit No. 28
Order of the
Honourable
the Chief
Justice
To examine
H. Reifel
April 7, 1932

BETWEEN:

VANCOUVER BREWERIES LIMITED,
Plaintiff,

—and—

VANCOUVER MALT & SAKE BREWING COMPANY
LIMITED

Defendant. 10

BEFORE THE HONOUR-
ABLE THE CHIEF
JUSTICE IN CHAMBERS }

THURSDAY, the 7th day of
APRIL, A. D. 1932.

UPON the application of the defendant, upon hearing Mr. G. F. McMaster, of counsel for the defendant, and upon reading the affidavit of Glenholme Ferguson McMaster sworn the 5th day of April, 1932, and filed herein, and the Chamber Summons issued herein on the 5th day of April, 1932, and Mr. G. C. Tarr, of counsel for the plaintiff, consenting:

IT IS ORDERED that the defendant be at liberty to examine 20
Henry Reifel, formerly President of the Plaintiff Company of
Vancouver, B. C., as a past officer of the Plaintiff Company, orally
before the trial of this action touching the matters in question
herein, pursuant to the rules in that behalf of this Honourable
Court, at such time and place as the District Registrar at Van-
couver, B. C., may appoint.

AND IT IS ALSO ORDERED that the costs of and incident-
al to this application be costs in the cause.

S. C. 437/32 "AULAY MORRISON," C.J.
Supreme Court of B. C. 30
Vancouver Registry
Exhibit No. 28

Vancouver Breweries vs.
Vancouver Malt & Sake
Put in by "D" Date June 1st, 1932
"F. T. H." Registrar.

B.C.L.S. Vancouver Registry Checked "S. V. L."
60c. Apr. 8, 1932.

Approved: Entered April 8, 1932.
"G. F. M." Order Book, Vol. 157, Fol. 71. 40
"G. C. T." Per "W. J. B."
"H. B."
"D. D. R."