

11, 1942

In the Privy Council.

No. 19 of 1941.

ON APPEAL FROM THE COURT OF  
APPEAL FOR ONTARIO.

BETWEEN

HIS MAJESTY THE KING, as represented by The Attorney-  
General for Ontario ... .. *Appellant*

AND

EVA MAY WILLIAMS and REGINALD VICTOR  
WILLIAMS, Executors of the Will of ALEXANDER DUNCAN  
WILLIAMS, deceased ... .. (*Suppliants*) *Respondents.*

RECORD OF PROCEEDINGS  
AND  
JOINT APPENDIX OF STATUTES.

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No. 19 of 1941.

**ON APPEAL FROM THE COURT OF  
APPEAL FOR ONTARIO.**

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BETWEEN

HIS MAJESTY THE KING, as represented by The  
Attorney-General for Ontario ... .. *Appellant*

AND

EVA MAY WILLIAMS and REGINALD VICTOR  
WILLIAMS, Executors of the Will of ALEXANDER  
DUNCAN WILLIAMS, deceased ... .. *(Suppliants) Respondents*

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**RECORD OF PROCEEDINGS.**

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**No. 1.**

**Petition of Right.**

IN THE SUPREME COURT OF ONTARIO.

To THE KING'S MOST EXCELLENT MAJESTY.

The Humble Petition of Eva May Williams and Reginald Victor Williams, both of the City of Buffalo, in the State of New York, one of the United States of America, the executors named in and by the Last Will and Testament of Alexander Duncan Williams, deceased, by their Solicitors, Messrs. Rose & Tyrrell, of the town of Fort Erie, in the Province of Ontario, sheweth that :—

10

1. The said Alexander Duncan Williams, Refiner, citizen of the United States of America, died on or about the 22nd day of July, 1934, and at the time of his death and for many years previously had a fixed place of abode and was domiciled at the City of Buffalo in Erie County in the State of New York, one of the United States of America.

2. On or about the 2nd day of August, A.D. 1934, the Surrogate Court of said Erie County, in the said State of New York, did grant letters

In the  
Supreme  
Court of  
Ontario.

No. 1.  
Petition  
of Right,  
15th April,  
1936

In the  
Supreme  
Court of  
Ontario.

—  
No. 1.  
Petition  
of Right,  
15th April,  
1936—  
*continued.*

Probate of the Last Will and Testament of the said Alexander Duncan Williams, deceased, to your Suppliants as the Executors named therein.

3. The said Alexander Duncan Williams owned at the time of his death certain real estate and other property situate in the Province of Ontario apart from 10,200 shares of Lake Shore Mines Limited hereinafter referred to.

4. On or about the second day of February, A.D. 1935, the Surrogate Court of the County of Welland in the Province of Ontario did grant Ancillary Letters Probate of the Last Will and Testament of the said Alexander Duncan Williams, deceased, to your Suppliants as said Executors for the administration of the property of the said deceased situate in Ontario. 10

5. The said Alexander Duncan Williams, deceased, owned at the time of his death ten thousand two hundred (10,200) shares of the capital stock of Lake Shore Mines Limited, a Company incorporated by Letters Patent issued under the Ontario Companies Act dated the 25th day of February, 1914.

6. Pursuant to the powers vested in Lake Shore Mines Limited by the Companies Act, Revised Statutes of Ontario, 1927, Chapter 218, and amendments thereto, and the Letters Patent incorporating said Company, and pursuant to its By-Laws and the Resolutions of its Directors, the said Lake Shore Mines Limited had power and authority to provide and since May 1927 had duly provided that its shares could be effectively transferred in the City of Buffalo, in the State of New York, one of the United States of America, and had duly designated the Manufacturers & Traders Trust Company in the said City of Buffalo as a Registrar and Transfer Agent at whose office shareholders might have their shares registered and transferred within the United States of America. 20

7. Accordingly, the said 10,200 shares of Lake Shore Mines Limited, the property of said deceased, the certificates representing which were, at all times since their issue and at the time of his death, physically situate in the said City of Buffalo where the said deceased was at all times domiciled, were not property situate in Ontario passing on his death and were not subject to duty under the provisions of The Succession Duty Act, chapter 55 of the Statutes of Ontario, 1934, or any other statute applicable. 30

8. The property owned by said deceased at the date of his death included credit balances in branches of Canadian Banks situate in Ontario totalling in excess of \$60,000 which constituted the major proportion of the liquid assets of his estate available to pay his debts. In addition to, and exclusive of, the said 10,200 shares of Lake Shore Mines Limited, the deceased owned at his death over \$40,000 in value of stocks or securities admittedly situate in Ontario. Under section 9 of the said Succession Duty Act the consent in writing of the Treasurer of Ontario was required before any moneys could be withdrawn by your Suppliants from the said Bank Accounts or before any of the stocks and securities situate in Ontario could be transferred, sold or otherwise dealt with. 40

9. Prior to the issue to your Suppliants as aforesaid of Ancillary Letters Probate in Ontario, your Suppliants submitted to the Treasurer of Ontario and filed with the Registrar of the Surrogate Court of the County of Welland, Ontario, full information as to the property of the deceased including filing with the said Surrogate Court the statement under oath as required by section 10 (3) of the said Succession Duty Act and in such statement showed the said 10,200 shares of Lake Shore Mines Limited as property situate out of Ontario. The said Treasurer, contending that the said last-mentioned shares were property situate in Ontario and as such  
 10 liable for Succession Duty there, demanded as a condition of his consenting to the release of said Bank Accounts and other Ontario assets that the sum of \$78,000 which he estimated as the Succession Duty payable, should be paid, which sum was paid on or about January 23rd, 1935, by your Suppliants, under duress and compulsion and subject to protest. On or about July 22nd, 1935, the said Treasurer refunded to your Suppliants the sum of \$1,347.68 but has neglected and refused to make any further refund to your Suppliants.

10. On the basis contended for by your Suppliants, i.e., omitting as assets in Ontario the said 10,200 shares of Lake Shore Mines Limited the  
 20 total Succession Duty payable as of July 22nd, 1935, was \$13,457.68, and your Suppliants claim to be entitled accordingly to a refund as of that date of \$65,336.17 made up as follows:—

	Succession Duty properly assessable	...	\$13,457.68	
	Paid under protest January 22, 1935	...		\$78,000.00
	Interest on over-payment of \$64,542.62 @ 4% from Jan. 22, 1935—July 22, 1935—180 days	... ..		1,273.17
	Interest on prepayments as follows:—			
30	Interest on \$2,722.21 @ 4% from Jan. 23, 1935—July 22, 1935—180 days	...		53.68
	Interest on \$2,722.21 @ 4% from Jan. 23, 1935—July 22, 1936—1 year, 180 days			162.57
	Interest on \$2,722.21 @ 4% from Jan. 23, 1935—July 22, 1937—2 years, 180 days			271.46
	Interest on \$2,722.21 @ 4% from Jan. 23, 1935—July 22, 1938—3 years, 180 days			380.35
	Refund from Treasurer, July 22, 1935	...	1,347.68	
	Amount over-paid as of July 22, 1935	...	65,336.17	
			<hr/>	<hr/>
			\$80,141.23	\$80,141.23

40 YOUR SUPPLIANTS THEREFORE HUMBLY PRAY—

(1) That this Honourable Court do declare that the said 10,200 shares of Lake Shore Mines Limited were not property situate in Ontario passing on the death of the said Alexander Duncan Williams and were not subject to duty under the said Succession Duty Act.

In the  
 Supreme  
 Court of  
 Ontario.

No. 1.  
 Petition  
 of Right,  
 15th April,  
 1936—  
*continued*

In the  
Supreme  
Court of  
Ontario.

No. 1.  
Petition  
of Right,  
15th April,  
1936—  
*continued.*

(2) That this Honourable Court do declare that your Suppliants are accordingly entitled to have refunded to them the sum of \$65,336.17 with interest thereon at the rate of five per centum per annum from July 22nd, 1935, and for judgment accordingly.

(3) For their costs of these proceedings.

(4) For such further or other relief as to this Honourable Court may seem meet.

Your Suppliants propose that the trial of this Petition shall take place at the City of Toronto in the County of York.

Dated this 15th day of April, A.D. 1936.

10

ROSE & TYRRILL, Fort Erie, Ont.,  
Solicitors for the said EVA MAY WILLIAMS  
and REGINALD VICTOR WILLIAMS, who reside  
at the City of Buffalo, in the State of New  
York, U.S.A.

The Suppliants pray for a plea or answer on behalf of His Majesty within twenty-eight days or otherwise, that the Petition may be taken as confessed.

Toronto, Ontario,  
February 28th, 1940.

20

Upon the advice of my Attorney-General, I HEREBY GRANT my FIAT that Right be Done.

“ALBERT MATTHEWS,”

*Lieutenant-Governor.*

Certified

“F. V. JOHNS,”

*Assistant Provincial Secretary.*

No. 2.  
Statement  
of Defence,  
5th April,  
1940.

## No. 2.

### Statement of Defence.

1. The Respondent admits the allegations contained in the 1st, 2nd, 3rd, 4th, 5th, 8th and 9th paragraphs of the Suppliants' Petition. 30

2. In answer to the allegations contained in paragraph 6 of the said Petition the Respondent says that Lake Shore Mines Limited never had and has not the power and authority to provide that its shares could be effectively transferred in the City of Buffalo in the State of New York in the manner mentioned in the said paragraph 6 or in any other manner, and the Respondent pleads the Letters Patent and by-laws of the said Company, the resolutions of its directors and The Companies Act, Revised Statutes of Ontario, 1927, Chapter 218, and amendments thereto.

3. In answer to the allegations contained in paragraph 7 of the said Petition the Respondent says that the 10,200 shares of Lake Shore Mines, Limited, referred to therein, were property situate in Ontario passing on the death of Alexander Duncan Williams and were subject to duty under the provisions of The Succession Duty Act, chapter 55 of the Statutes of Ontario, 1934, or other statute applicable.

Therefore the Respondent asks that the Suppliants' Petition be dismissed with costs.

Delivered the 5th day of April, 1940, by L. R. MacTavish, Parliament  
10 Buildings, Toronto, Solicitor for the Respondent.

In the  
Supreme  
Court of  
Ontario.  
—  
No. 2.  
Statement  
of Defence,  
5th April,  
1940—  
*continued.*

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**No. 3.**

**Proceedings at Trial.**

Before the Honourable Mr. Justice McTAGUE, at Toronto, Ontario,  
4th May, 1940.

Appearances:

	PETER WHITE, K.C.	} Counsel for the Suppliants.
	E. BRISTOL, K.C.	
	E. TYRRILL, Esq.	
20	D. L. McCARTHY, K.C.	} Counsel for the Respondent.
	L. R. MAC TAVISH, Esq.	

No. 3.  
Proceedings  
at Trial.

Saturday, 4th May, 1940, at 10 a.m.:

HIS LORDSHIP: Williams vs. The King. Are you ready to proceed, gentlemen?

Mr. WHITE: Yes, my Lord. With me, my Lord, appearing for the Suppliants, are Mr. Bristol and Mr. Tyrill.

HIS LORDSHIP: And Mr. McCarthy and Mr. MacTavish are for the Respondent?

Mr. WHITE: Yes, my Lord. Your Lordship, I understand, is familiar with the issue involved.

30 HIS LORDSHIP: I have read the petition.

Mr. WHITE: And the defence?

HIS LORDSHIP: I don't know that I am altogether familiar with it. I would appreciate a little explanation.

Mr. WHITE: I will take the petition and see what the admissions are. The petition recites that the late Alexander Duncan Williams, Refiner, citizen of the United States of America, died on the 22nd day of July, 1934—on or about that date—and at the time of his death and for many years previously had a fixed place of abode and was domiciled at the City



In the  
Supreme  
Court of  
Ontario.

No. 3.  
Proceedings  
at Trial—  
*continued.*

of Buffalo in Erie County in the State of New York, one of the United States of America.

2. On or about the 2nd day of August, 1934, the Surrogate Court of said Erie County, in the said State of New York, did grant Letters Probate of the Last Will and Testament of the said Alexander Duncan Williams, deceased, to the Suppliants as the Executors named therein.

3. The said Alexander Duncan Williams owned at the time of his death certain real estate and other property situate in the Province of Ontario apart from 10,200 shares of Lake Shore Mines, Limited, hereinafter referred to. 10

These 10,200 shares are the ones, my Lord, the succession duty in respect of which is in question in this action.

HIS LORDSHIP : Quite.

Mr. WHITE : Then : 4. On or about the 2nd day of February, 1935, the Surrogate Court of the County of Welland in the Province of Ontario did grant Ancillary Letters Probate of the Last Will and Testament of the said Alexander Duncan Williams, deceased, to the Suppliants.

5. The said Alexander Duncan Williams, deceased, owned at the time of his death ten thousand two hundred (10,200) shares of the capital stock of Lake Shore Mines, Limited, a Company incorporated by Letters Patent issued under the Ontario Companies Act dated the 25th day of February, 1914. 20

Then, my Lord, you will see that those five paragraphs are admitted by the defence. I refer your Lordship to paragraph 1 of the Statement of Defence. And so I do not propose to make formal proof, by reason of those admissions.

HIS LORDSHIP : Very well.

Mr. WHITE : Paragraph 6. Pursuant to the powers vested in Lake Shore Mines, Limited, by the Companies Act, Revised Statutes of Ontario, 1927, chapter 218 and amendments thereto, and the Letters Patent incorporating said Company, and pursuant to its By-laws and the Resolutions of its Directors, the said Lake Shore Mines, Limited, had power and authority to provide and since May 1927 had duly provided that its shares could be effectively transferred in the City of Buffalo, in the State of New York, one of the United States of America, and had duly designated the Manufacturers & Traders Trust Company in the said City of Buffalo as a Registrar and Transfer Agent at whose office shareholders might have their shares registered and transferred within the United States of America. 30

There is an answer to that paragraph in paragraph 2 of the Statement of Defence, my Lord, which says : In answer to the allegations contained in paragraph 6 of the said Petition the Respondent says that Lake Shore Mines, Limited, never had and has not the power and authority to provide that its shares could be effectively transferred in the City of Buffalo in the State of New York in the manner mentioned in the said paragraph 6 or in any other manner, and the Respondent pleads the Letters Patent and By-laws 40

of the said Company, the resolutions of its directors and The Companies Act, Revised Statutes of Ontario, 1927, chapter 218, and amendments thereto.

There, flatly, is the issue, my Lord.

HIS LORDSHIP : Yes.

Mr. WHITE : In paragraph 7 we allege that : Accordingly, the said 10,200 shares of Lake Shore Mines, Limited, the property of said deceased, the certificates representing which were, at all times since their issue and at the time of his death, physically situate in the said City of Buffalo where the said deceased was at all times domiciled, were not property situate in  
10 Ontario passing on his death and were not subject to duty under the provisions of the Succession Duty Act, chapter 55 of the Statutes of Ontario, 1934, or any other statute applicable.

That is not admitted, my Lord. There is no specific answer in the defence to that paragraph.

Then paragraph 8 : The property owned by said deceased at the date of his death included credit balances in branches of Canadian banks situate in Ontario totalling in excess of \$60,000 which constituted the major proportion of the liquid assets of his estate available to pay his debts. In addition to, and exclusive of, the said 10,200 shares of Lake Shore Mines,  
20 Limited, the deceased owned at his death over \$40,000 in value of stocks or securities admittedly situate in Ontario. Under Section 9 of the said Succession Duty Act the consent in writing of the Treasurer of Ontario was required before any moneys could be withdrawn by your Suppliants from the said Bank accounts or before any of the stocks and securities situate in Ontario could be transferred, sold or otherwise dealt with.

HIS LORDSHIP : That is specifically admitted ?

Mr. WHITE : Yes, my Lord. Paragraph 9 is also admitted. Paragraph 9 : Prior to the issue to your Suppliants as aforesaid of Ancillary Letters Probate in Ontario, your Suppliants submitted to the Treasurer of  
30 Ontario and filed with the Registrar of the Surrogate Court of the County of Welland, Ontario, full information as to the property of the deceased including filing with the said Surrogate Court the statement under oath as required by Section 10 (3) of the said Succession Duty Act and in such statement showed the said 10,200 shares of Lake Shore Mines, Limited, as property situate out of Ontario. The said Treasurer, contending that the said last mentioned shares were property situate in Ontario and as such liable for Succession Duty there, demanded as a condition of his consenting to the release of said Bank Accounts and other Ontario assets that the sum of \$76,000 which he estimated as the Succession Duty payable, should be  
40 paid, which sum was paid on or about January 23rd, 1935, by your Suppliants, under duress and compulsion and subject to protest. On or about July 22, 1935, the said Treasurer refunded to your Suppliants the sum of \$1,347.68 but has neglected and refused to make any further refund to your Suppliants.

My learned friends and ourselves have virtually agreed that the real matter which we wish to submit to your Lordship's determination is whether

In the  
Supreme  
Court of  
Ontario.

No. 3.  
Proceedings  
at Trial—  
*continued.*

In the  
Supreme  
Court of  
Ontario.

No. 3.  
Proceedings  
at Trial—  
*continued.*

the Company had power, under the Ontario Companies Act, to establish in Buffalo a transfer agency where shares could be, in the language of the cases, effectively dealt with.

Then in regard to paragraph 10. That is not admitted, but I think my learned friends will say to your Lordship that if we succeed these figures are to be regarded as the proper figures.

HIS LORDSHIP : You agree with that ?

Mr. McCARTHY : Yes, my Lord. We sat down and worked them out.

Mr. WHITE : The issue is a simple one——

HIS LORDSHIP : You mean it is simple appearing ?

10

Mr. WHITE : That it can be simply stated.

HIS LORDSHIP : Yes.

Mr. WHITE : Well, perhaps that is a better way of putting it, my Lord.

HIS LORDSHIP : Yes, I agree with you.

Mr. WHITE : I first put in, my Lord, the Letters Patent of the Lake Shore Mines, Limited, and Supplementary Letters Patent. The Letters Patent are dated the 25th of February, 1914, and the Company is incorporated under the Companies Act. I would like to take time at this stage to bring to your Lordship's attention, if I may, the first recital and the second :

“ WHEREAS The Ontario Companies Act provides that with the exceptions herein mentioned the Lieutenant-Governor may by Letters Patent create . . . ” and I ask your Lordship to take special cognizance of that word ‘ create,’ . . . “ and constitute bodies corporate and politic for any of the purposes to which the authority of the Legislature of Ontario extends :

“ AND WHEREAS by the said Act it is further provided that the Provincial Secretary may under the Seal of his office have, use, exercise, and enjoy any power, right, or authority conferred by the said Act on the Lieutenant-Governor : ”

30

The Company was incorporated with a capital of One Million Five Hundred Thousand Dollars, divided into One Million Five Hundred Thousand Shares of One Dollar each. The Directors were authorized to hold meetings outside of the Province of Ontario.

Exhibit 1 (Record p. 78). Letters Patent incorporating Lake Shore Mines, Limited ; dated February 25, 1914.

Mr. WHITE : And just to complete the matter I will put in the Supplementary Letters Patent, which are dated the 14th of September, 1916, and merely increases the capital stock of the Company from One Million Five Hundred Thousand Dollars to the sum of Two Million Dollars.

40

Exhibit 2 (Record p. 80). Supplementary Letters Patent, Lake Shore Mines, Limited, dated September 14, 1916.

Mr. WHITE : I will now call Mr. Doggett.

## No. 4.

## Evidence of George Farish Doggett.

In the  
Supreme  
Court of  
Ontario.

Suppliants'  
Evidence.

No. 4.  
George  
Farish  
Doggett.  
Examina-  
tion.

Examined by Mr. WHITE.

Q. You are Secretary of Kirkland Securities Limited, an Ontario Company, which is Secretary of Lake Shore Mines, Limited ?—A. Yes, sir.

Q. And as such—

HIS LORDSHIP: That is a new one on me: "Secretary of Kirkland Securities Limited, which is Secretary of Lake Shore Mines, Limited."

Mr. WHITE: Yes, my Lord.

10 HIS LORDSHIP: All right, proceed.

Mr. WHITE: Q. Have you charge of the books and records of the Lake Shore Mines, Limited ?—A. Yes.

Mr. WHITE: By arrangement I believe we are to use copies instead of the original by-laws.

Mr. McCARTHY: Are the originals here ?

Mr. WHITE: Q. Have you the originals ?—A. No, sir; not with me.

Q. You have certified copies ?—A. Yes, sir.

Q. You have compared them yourself ?—A. Yes, sir.

20 Mr. McCARTHY: I thought the arrangement was that if the originals were produced then copies could be put in. I don't know if they are complete copies.

Mr. WHITE: Q. You have complete copies of all the by-laws of Lake Shore ?—A. Yes, sir.

Q. Including all Repeals or Amendments ?—A. Yes, sir.

Mr. WHITE: If my learned friends want them they are—

HIS LORDSHIP: Mr. McCarthy can reserve his rights. You can decide that.

Mr. WHITE: They are here in the City of Toronto, and my friends can look at them.

30 Q. Will you let me have them ?—A. Yes, sir.

Q. What you produce is a complete certified copy of all of the by-laws of Lake Shore Mines, Limited, appearing in the Minute Book of Lake Shore Mines, Limited ?—A. Yes, Sir.

Mr. WHITE: There are one or two of these which I would like to call to your Lordship's attention. Many of them are not relevant.

HIS LORDSHIP: You had better put them in now as the next Exhibits. Exhibit 3 (Record p. 80). Certified copies of *all* the by-laws appearing in the Minute Book of Lake Shore Mines, Limited.

40 Mr. WHITE: By-law No. 1 is simply the allotment of the original five shares. By-law No. 2 provides, in paragraph 1, that the Head Office of the Company shall be Haileybury, Ontario, and that has been amended by By-law No. 9 so that the Head Office of the Company at the relevant

In the Supreme Court of Ontario.

Suppliants' Evidence.

No. 4. George Farish Doggett. Examination—continued.

time here has been Kirkland Lake. The Head Office was changed from Haileybury to Kirkland Lake by by-law passed on the 14th of November, 1914.

Then, my Lord, the general by-laws of the Company are incorporated in By-law No. 2, and I call your Lordship's attention to paragraph 3: "The annual meeting of the Shareholders shall be held at the office of the Company, or elsewhere as the Board may appoint, on such date in each year as the Directors may appoint."

Then paragraph 5: "The name and post office address of each Shareholder and Director shall be entered in a Register and until notification in writing of a new address, is received by the Secretary, the last address appearing in the Register shall be deemed the post office address and the last known address of such Shareholder or Director." 10

You will notice, my Lord, in passing, that that is a book apparently to be kept by the secretary of the Company. The notification is to be given to the secretary.

Then paragraph 9, if your Lordship will turn to it. "The regular meetings of the Directors of the Company shall without notice be held on the first Monday in each month at the hour of ten o'clock in the forenoon, either at the Head Office of the Company or at such other fixed time or times and place or places, either within or outside of the Province of Ontario, as the Directors present at any regular meeting of Directors may from time to time determine." 20

Mr. WHITE: Then there is nothing, I think, of relevancy until we come to paragraph 17:

"A stock transfer book shall be provided in such form as the board of Directors may approve of and all transfers of stock in the capital of the Company shall be made in such book and shall be signed by the transferor or by his attorney duly appointed in writing, stock certificates shall be in such form as the board may approve or . . ."

and I think that should be "of" instead of "or," my Lord, 30

"and shall be under the Seal of the Company and shall be signed by the President or Vice-President and the Secretary or such other officer in place of the Secretary as the board may by resolution authorize."

May I call your Lordship's attention, in passing, to the provision that the transfers are to be signed by the transferor or by his attorney duly appointed in writing. Your Lordship will see later, when the actual transfer book or sheets from it are produced, that the act of transferring is the act of the transferor or his attorney; that is either by himself or by his attorney. 40

Those are the relevant provisions of the by-laws as it appears to myself, and no doubt my learned friends.

Q. Then, Mr. Doggett, have you a certified copy of a resolution appointing as Transfer Agent and Registrar the Trusts and Guarantee Company, Limited?—A. Yes, I have.

Mr. McCARTHY : We have not seen this, my Lord.

Mr. BRISTOL : My friend, Mr. MacTavish, got a copy of that.

Mr. MacTAVISH : Oh, no.

Mr. McCARTHY : Strictly speaking, documents certified this way are not evidence.

HIS LORDSHIP : I understand that. I understood you were objecting to them going in in this form, but after you had had an opportunity to cross-examine then you might withdraw your objection.

Mr. McCARTHY : If the originals were here then I could——

10 Mr. WHITE : Then we will get the originals here sometime this morning. They are in the city.

Mr. McCARTHY : This is just the beginning of what may be a long trail in this action, and I think it is very important that the Record——

HIS LORDSHIP : I understand. However, Mr. White says he will have the originals here for you later on this morning.

Mr. McCARTHY : I don't wish to be objecting to copies of documents, but I must do so if I am not to be given an opportunity of seeing the originals.

20 HIS LORDSHIP : You have a perfect right to object to them. Mr. White, however, has undertaken to have the originals here this morning.

Mr. McCARTHY : Very well, my Lord.

Mr. WHITE : *Q.* You hand to me a certified copy of a resolution passed at a meeting of directors of Lake Shore Mines, Limited, held at Kirkland Lake, Ontario, on December 21, 1916 ?—*A.* Yes, Sir.

Mr. WHITE : I shall read this, my Lord :

“ Whereas it is deemed advisable, in the interests of this Company, to appoint a Transfer Agent and Registrar of its stock in the city of Toronto ;

30 “ And Whereas The Trusts and Guarantee Company, Limited, have their Head Office in the City of Toronto, and have agreed to act as Transfer Agent and Registrar of the stock of the Company :

“ Now Therefore be it Resolved

“ (1) That the Trusts and Guarantee Company, Limited, be and it is hereby appointed Transfer Agent and Registrar of the Capital Stock of the Company in the City of Toronto.

40 “ (2) That said Transfer Agent and Registrar be and it is hereby authorized and directed to issue certificates of shares when signed by the President or Vice-President, and the Secretary or Assistant Secretary of this Company, and to countersign any new Certificates issued in exchange for or against such certificates when surrendered for transfer, when signed by the President or Vice-President, and the Secretary or Assistant Secretary of the Company.

“ (3) That the Transfer Agent and Registrar be and they are hereby authorized and directed to issue certificates on the certificate of the

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“ Secretary of the Company that shares have been purchased and paid for,  
“ and that the parties are entitled to Certificates.

“ (4) That in case of doubt or dispute respecting the performance of  
“ any of the duties authorized by this Resolution, on the part of the said  
“ Transfer Agent and Registrar, that they apply to A. G. Slaght, 804 Royal  
“ Bank Building, Toronto, Counsel appointed by this Company and acting  
“ upon instructions given by Counsel, it shall be fully protected against all  
“ liability and held harmless by the Company.

“ (5) That said Transfer Agent and Registrar shall not be held liable  
“ for any act or omission on its part, if performed or omitted to be performed 10  
“ in good faith, and upon advice of duly authorized Counsel of this Company,  
“ and shall be indemnified against all loss, cost or damage which might be  
“ incurred by refusing to perform any of its duties as Registrar or Transfer  
“ Agent, when acting on the instructions of the Company.

“ (6) That the Secretary of the Company be and he is hereby authorized  
“ and directed to certify to the above Resolution, under the Seal of the  
“ Company, and thereupon said Resolution shall constitute full authority  
“ to said Transfer Agent and Registrar of the Stock of this Company.”

“ Carried.”

“ It was moved by Mr. Morrison seconded by Mr. Conroy that the 20  
“ proper officers of the Company be authorized to sign the Agreement with  
“ the Trust and Guarantee Company, Limited, of Toronto, copy of which  
“ was read and approved by the meeting.” “ Carried.”

Mr. McCARTHY: That is going in subject to producing the Agreement ?

Mr. WHITE : Yes, yes.

Exhibit 4 (Record p. 93). Certified copy of a Resolution passed  
at a meeting of Directors of Lake Shore Mines, Limited, held at Kirkland  
Lake, Ontario, on December 21, 1916, appointing The Trusts and  
Guarantee Company, Limited, as Transfer Agent and Registrar of its  
stock in the City of Toronto. 30

Q. Have you a copy of the Agreement ?—A. Yes, Sir. (Document  
produced by witness.)

Mr. WHITE : This is the Agreement drawn in pursuance of that  
Resolution, my Lord.

“ MEMORANDUM OF AGREEMENT made in triplicate this 21 day  
of December, 1916.

“ Between :

“ Lake Shore Mines Limited (No personal liability), hereinafter  
“ called ‘ the Company,’

“ of the *First Part,* 40

“ and

“ The Trusts and Guarantee Company, Limited, hereinafter  
“ called ‘ the Trust Company,’

“ of the *Second Part.*”

“ For Valuable Consideration It Is Agreed :

“ 1. That the Trust Company be and it is hereby appointed Registrar and Transfer Agent of the shares of the Capital Stock of the Company in Toronto.

“ 2. That the Trust Company’s compensation as Registrar and Transfer Agent shall be the sum of Two Hundred and Fifty Dollars (\$250.00) in each and every year during the continuance hereof. . . .”

10 I don’t think the rest of that clause is important because it simply provides for the fees for the transferring and issuing of certificates beyond a certain number.

Then paragraph 3 is the question of fees again.

Paragraph 4. “ This Agreement may be terminated by either party at any time by giving the other one month’s notice in writing.” Then something more is said about fees, my Lord.

20 Paragraph 5. “ The Company shall forthwith cause to be delivered to the said Trust Company all Stock Certificates that it has had printed, and where any of such Certificates have been used the stubs of such Certificates and any Certificates that may have been cancelled shall also be forthwith delivered to the Trust Company, and all new supplies of Stock Certificates, whether numbered or unnumbered, and whether bound in books or unbound, shall immediately upon being completed by the printer or engraver be delivered to the said Trust Company.”

Paragraph 6. “ The Trust Company shall keep the Company’s Stock Ledger during the currency hereof.”

And then something about advertising in clause 7.

Then paragraph 8 provides for notice to the parties to the Agreement, and is therefore not relevant here.

30 Exhibit 5 (Record p. 94). Certified copy of Agreement between Lake Shore Mines, Limited and The Trusts and Guarantee Company, Limited. Agreement dated December 21, 1916.

Mr. WHITE : Your Lordship will notice that there is a distinction between a Transfer Agent and a Registrar. The Trusts and Guarantee Company were appointed to both offices, and then subsequently The Royal Trust Company was appointed a Registrar. I would just like to put that in, my Lord. The reason being, I am told, that the Stock Exchange requires two Registrars when the stock is listed on the Exchange, and such was the case when this stock was listed on the Exchange at that time.

40 Q. You hand me a Certified Copy of a Resolution passed the 21st day of May, 1925, appointing The Royal Trust Company of Toronto a Registrar for the Lake Shore Mines, Limited ?—A. Yes, Sir.

Q. And all these are true copies prepared by you and compared with the true Minutes ?—A. Yes, Sir.

Mr. WHITE : The Resolution is as follows :

“ Whereas it is deemed advisable, in the interests of this Company, to appoint a Registrar of its stock in the City of Toronto, independent of the Company acting as Transfer Agent.

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No. 4. George Farish Doggett. Examination—continued.



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“ And, Whereas, The Royal Trust Company, of the City of Toronto  
“ have agreed to act as Registrar of the Company :

“ Now Therefore Be It Resolved, That The Royal Trust Company be  
“ and is hereby appointed to act as Registrar for the stock of the Lake  
“ Shore Mines, Limited (No Personal Liability), for such considerations  
“ and upon such terms and conditions as may be mutually arranged,  
“ and for the purpose of carrying into effect the above, Mr. Harry Oakes,  
“ President of Lake Shore Mines, Limited, is hereby authorized and  
“ empowered to make all necessary arrangements with The Royal Trust  
“ Company on behalf of this Company.”

10

“ Moved by Mr. Wright, seconded by Mr. Martin, that the above resolu-  
“ tion be accepted and confirmed.”

“ Carried.”

Exhibit 6 (Record p. 96). Certified Copy of Resolution passed at  
a meeting of Directors of Lake Shore Mines, Limited, held at Kirkland  
Lake, Ontario, on May 21, 1925, appointing The Royal Trust Company,  
of the City of Toronto, as Registrar for the stock of the Lake Shore  
Mines, Limited.

Q. Have you the Agreement with The Royal Trust Company?—  
A. No, I have not.

20

Q. I produce the original and ask you whether this is the Agreement with  
The Royal Trust Company, entered into as a result of Exhibit 6?—A. I  
can't, I don't think.

Q. Do you recognize the signatures?—A. Yes, I do. I don't know  
that I have seen the Agreement, though.

Q. It is under the Seal of the Lake Shore Mines, Limited?—A. Yes,  
Sir.

Mr. WHITE : I tender that and ask permission to substitute a copy  
later, my Lord.

HIS LORDSHIP : You propose to file that as Exhibit 7, and then  
substitute a copy of it ?

Mr. WHITE : Yes, my Lord.

Mr. McCARTHY : I have no objection to that. I think the original  
should be marked.

Exhibit 7 (Record p. 97). Agreement between Lake Shore  
Mines, Limited, and The Royal Trust Company, dated May 21, 1925.  
(Copy to be substituted later.)

Mr. WHITE : The Agreement reads :

“ Memorandum of Agreement, made this 21st day of May, 1925,  
“ at the City of,” and, my Lord, it is blank, “ between Lake Shore  
“ Mines, Limited, Hereinafter called ‘ The Company ’ herein acting and  
“ represented by Harry Oakes, its President duly authorized hereto and  
“ The Royal Trust Company, hereinafter called ‘ The Trust Company ’  
“ herein acting and represented by Robert P. Jellett and Matthew S. L.

40

“ Richey its Assistant General Manager and Secretary duly authorized hereto. In the Supreme Court of Ontario.

“ It is agreed and covenanted by and between the parties hereto as follows :—

“ 1. Lake Shore Mines, Limited, having by Resolution appointed The Trust Company Registrar in Toronto, \_\_\_\_\_ of its Capital Stock \_\_\_\_\_” Suppliants' Evidence.

I ask your Lordship to note that it says “ of its capital stock.” No. 4.

10 Mr. WHITE : (Reading from document, Exhibit 7): “ The Trust Company accepts such appointment upon the terms hereinafter mentioned. George Farish Doggett. Examination—

“ 2. The Trust Company shall keep the Company’s Register, or Registers subject to such general and particular instructions as may from time to time be given to it by or under the authority of the Directors of The Company.” continued.

“ 3. The Trust Company shall not be responsible for any illegal Transfers of Stock, its duty being only to countersign Certificates or Discharge Warrants bearing the signature of such officers as the Directors of the Company may appoint, for which it cancels Certificates and Warrants for a like number of Shares.

20 “ 4. The Trust Company agrees to faithfully carry out and perform its duties hereunder, and upon the termination hereof to deliver over to the ”——and it is blank.

Mr. McCARTHY : Is it blank in the original ?

Mr. WHITE : Perhaps I had better read from the original. Yes, it is blank. “ To the (blank) of the Company the said books, and any documents and papers connected herewith or with the business of The Company transacted hereunder. And a receipt signed by the President or Vice-President, or Secretary of the Company, shall be a valid discharge to the Trust Company.

30 “ 5. The Trust Company’s fees for the above mentioned services shall be as per schedule ‘ A ’ attached which has been initialled for identification by the parties hereto.

“ 6. The Company agrees to furnish The Trust Company with a certified statement showing the number of shares of its stock now outstanding.

“ 7. The foregoing Memorandum of Agreement shall be subject to revision at the end of any year or may be cancelled by either party on six months’ notice being given.”

40 It is signed by Harry Oakes, President of The Lake Shore Mines, Limited, and signed by R. P. Jellett, Assistant General Manager, The Royal Trust Company ; and by M. S. L. Richey, Secretary, and the seal of both companies appears, my Lord.

Q. Have you the resolution there appointing the Manufacturers and Traders Trust Company as Transfer Agent and Registrar ?—A. Yes, Sir. (Document produced by witness.)

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Mr. WHITE : This is a resolution passed on the 18th of May, 1927.  
“ Moved by—

Mr. McCARTHY : I don't know whether I should object to it at this stage, my Lord.

HIS LORDSHIP : You say they have not the authority. That is a matter of law.

Mr. McCARTHY : Yes. I object to it, my Lord.

Mr. WHITE : This is the resolution of May 18, 1927. “ Moved by  
“ Mr. Martin, seconded by Mr. Wright, that the Company hereby designate  
“ and appoint Manufacturers and Traders Trust Company of Buffalo, New 10  
“ York, as an additional Registrar and Transfer Agent at which office  
“ shareholders may have their stock registered and transferred within the  
“ United States of America. Carried.”

That is certified under seal of the Company, my Lord.

Exhibit 8 (Record p. 99). Certified copy of resolution passed at meeting of directors of Lake Shore Mines, Limited, held at Kirkland Lake, Ontario, on May 18, 1927, appointing the Manufacturers and Traders Trust Company of Buffalo, New York, as Registrar and Transfer Agent.

Q. Was any formal agreement entered into between the Manufacturers 20  
and Traders Trust Company and Lake Shore Mines, Limited ?—A. Not to my knowledge.

Q. There was some correspondence was there ?—A. Yes, Sir.

Q. I show you a letter dated May 28, 1927—

Mr. McCARTHY : I am taking the same exception, that the correspondence between these two companies would not be evidence against the Crown, and would not be relevant, my Lord.

HIS LORDSHIP : It might be totally ineffective but may be relevant.

Mr. McCARTHY : I must object to it, my Lord.

HIS LORDSHIP : Very well. 30

Mr. WHITE : Dated May 28, 1927.

Q. At the bottom—Kirkland Securities, Ltd., Secretary of Lake Shore Mines, Limited, per G. Oakes. Do you recognize the signature ?—A. Yes, Sir.

Mr. WHITE : This letter is dated May 28, 1927. “ Manufacturers and Traders Trust Company of Buffalo, Buffalo, New York.

“ Dear Sirs :

“ This is to advise you that at the meeting of the Board of Directors  
“ of Lake Shore Mines, Limited, held on the 18th of May, 1927, at 11.00 a.m.,  
“ you were appointed as an additional Registrar and Transfer Agent of this 40  
“ Company for the convenience of shareholders within the United States.

“ We hand you herewith a certified copy of the resolution passed at the above meeting.

“ The Transfer Agent in Toronto, The Trusts and Guarantee Company, Limited, have been notified of your appointment.

“ Will you kindly forward to us your form of agreement and schedule of charges for the above services.

“ Yours very truly,

“ KIRKLAND SECURITIES, LIMITED,

“ Secretary of LAKE SHORE MINES, LIMITED,  
“ per ‘ G. OAKES ’.”

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10 The Manufacturers and Traders Trust is commonly called The M. and T.  
I think it would be much easier to refer to it hereafter as such, my Lord.  
HIS LORDSHIP : Very well.

Mr. WHITE : As this correspondence, in my submission, constitutes the contract between the Manufacturers and Traders Trust Company and the Lake Shore Mines it might all go in as one Exhibit, my Lord.

HIS LORDSHIP : Very well.

Mr. WHITE : Then there is a copy of the Resolution attached to the letter, which is already in. A copy of Exhibit 8 is attached.

20 Mr. McCARTHY : My friend is putting in these letters as evidence of a contract between The Trust Company and Kirkland Securities. Even though Exhibit 8 is already in if Exhibit 9 had that attached to it it should go in with it.

Mr. WHITE : It is a copy of it.

Mr. McCARTHY : This is all subject to my seeing these documents.

Mr. WHITE : Lake Shore Mines is not a party to this action. This is evidence obtained from third parties, and my friend had the same opportunity of seeing it as I had.

30 Mr. McCARTHY : I don't think my friend should say that. My friend obviously had to call this witness. Why should I interfere with this Company ? If my friend wishes to act that way I will object to all the documents.

Mr. WHITE : Now, now. My friend—

HIS LORDSHIP : Oh, I think you had better proceed now, and go on with this witness.

Mr. McCARTHY : I am only saying that at some stage I want to see the original documents.

Mr. WHITE : We will have them here just as soon as I can get this witness out of the box and down to the office.

Mr. McCARTHY : All right.

40 Mr. WHITE : Then, a copy of a letter dated June 6, 1927, from the Manufacturers and Traders Trust Company to Lake Shore Mines, Limited.

“ Gentlemen :

“ This will acknowledge receipt of your letter of May 28, 1927,  
“ enclosing certified copy of Resolution passed by your Board of Directors

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“ on May 13, 1927, appointing this bank as additional transfer agent and registrar for the stock of your company transferable in the United States.

“ We very much appreciate this appointment. We will co-operate closely with your Canadian transfer agent and registrar and will attempt to give you entirely satisfactory service.

“ We enclose herewith form of certificate to be executed by your secretary which will give us the additional information we require. We will, of course, also require a supply of stock certificates signed and sealed by the proper officers of the corporation.”

Then there is the schedule of fees, and we are not much interested in that. I think that is all there is to that. 10

Mr. McCARTHY : That is not proven, is it ?

Mr. WHITE : We will have to prove it. It is subject to proof.

Mr. McCARTHY : All right.

Mr. WHITE : Then, my Lord, a letter, dated June 28, 1927, from Lake Shore to M. and T.

“ Dear Sirs :

“ In further reference to your favour of the 6th of June, we hand you herewith duly executed Certificate of Secretary of Lake Shore Mines, Limited, together with copy of by-laws, specimen of stock certificate in use up to September, 1925, specimen of form “ A ” and form “ B ” of stock certificates now in use, which we trust will fully meet your requirements. 20

“ The matter of the certificates to be used by you as Transfer Agent for United States stockholders is being taken up with the engravers, the Canadian Bank Note Company, Ltd., Toronto.”

The certificate enclosed herewith is this : “ Kirkland Securities Limited, as Secretary of Lake Shore Mines, Limited, hereby certifies——”

Mr. McCARTHY : What are you reading now ?

Mr. WHITE : The certificate which was enclosed with the letter I have just read. It is a certificate showing the authorized capital and so on. 30

Mr. McCARTHY : The letter my friend just read says : “ . . . together with copy of by-laws, specimen of stock certificate in use up to September, 1925, specimen of form ‘ A ’ and form ‘ B ’ of stock certificates now in use, which we trust will fully meet your requirements.” Those are all in that letter. Your Lordship realizes this case is just beginning a long long trail, and I think it is important that the record should be fairly accurate.

HIS LORDSHIP : Yes. I thought you were in agreement on all these things. 40

Mr. McCARTHY : So we are, my Lord. If my friend wishes to put in documents, and I have the opportunity of seeing them, and then substitute copies that is all right. However, my Lord, I want all the documents put in.

Mr. WHITE : I didn't intend to put these in but now my friend has spoken of them I will put in the specimen referred to in the last letter. There is a specimen stock Certificate, No. 17989, with the signatures thereon of the President and Secretary, and a certificate specimen A0000 and also B0000. Also the By-laws of the Company, which are already in, are referred to, and I will put them in again if my learned friend wishes me to, to complete this.

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Mr. McCARTHY : My friend is proving a contract by correspondence and he must do it in the proper way.

10 Mr. WHITE : All right then, in they go.

Mr. McCARTHY : My friend has not had the witness identify the last document.

Mr. WHITE : Oh, all right, all right.

Mr. McCARTHY : If my friend doesn't want to do it——

Mr. WHITE : All right.

Q. Do you recognize this original of a letter signed by Mr. Oakes ?—

A. Yes.

Mr. WHITE : I refer to the letter of June 28, my Lord.

HIS LORDSHIP : Yes.

20 Mr. WHITE : Then, my Lord, the certificate referred to in the letter is :

“ CERTIFICATE OF SECRETARY  
“ KIRKLAND SECURITIES, LIMITED, as Secretary of LAKE SHORE MINES,  
“ LIMITED, hereby certifies :  
“ 1. That said Lake Shore Mines, Limited, has an authorized stock of  
“ \$2,000,000.00, divided into 2,000,000 shares of the par value of \$1.00  
“ each, of which 2,000,000 shares have been duly issued and are now  
“ outstanding.  
“ 2. That annexed hereto and identified by autographed signature  
“ thereon is a true and complete copy of the By-laws of said Lake Shore  
30 “ Mines, Limited, now in force.  
“ 3. That annexed hereto and identified by autographed signature  
“ thereon is a specimen set of certificates of stock of said Lake Shore Mines,  
“ Limited, and of the only certificates of stock of said company.  
“ 4. That the following are the genuine signatures of all of the officers  
“ of said Lake Shore Mines, Limited, who are authorized to sign certificates  
“ of stock for and on behalf of said Company.

“ ‘ HARRY OAKES ’	‘ J. E. ROBINSON, ’
“ President of Lake Shore	Agent of Secretary, Kirkland
“ Mines, Limited.	Securities, Ltd., of Lake
40 “	Shore Mines, Limited.

“ 5. That the only other Registrar of said Lake Shore Mines, Limited,  
“ is the Royal Trust Company, 59 Yonge Street, Toronto, Ontario, and the

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“ only other transfer Agent of said Company is The Trusts and Guarantee Company Limited, 302 Bay Street, Toronto, Ontario.

“ In Witness whereof, the corporate seal of said Company affixed this 28th day of June, 1927, and these presents have been executed by the aforementioned secretary of said Lake Shore Mines, Limited, thereunto duly authorized.

KIRKLAND SECURITIES, LIMITED

Secretary of LAKE SHORE MINES, LIMITED

By ‘ HARRY OAKES,’ *President.*

‘ G. OAKES,’ *Secretary.*”

10

Q. Do you identify the signatures on this document called Certificate of Secretary ?—A. Yes, Sir.

Q. Mr. Oakes ?—A. Yes.

Q. And the seal of the Company ?—A. Yes, Sir.

Exhibit 9 (Record, p. 99).—Correspondence between Lake Shore Mines, Limited, and Manufacturers and Traders Trust Company of Buffalo. Certificate of Secretary Specimen Certificates No. 17989, A0000 and B0000. (9 sheets.)

Q. Apart from the resolutions that have been put in here are there any other resolutions in the books of Lake Shore Mines, Limited, respecting the transfers of shares or appointment of Transfer Agents or Registrars, I should say ?—A. No, Sir, I have handed you all the resolutions with regard to the transferring of shares and the appointment of Transfer Agents. 20

Q. Has the appointment of the Manufacturers and Traders Trust Company in Buffalo in any way been revoked by the Company or are they still acting for the Company ?—A. They are still acting for the Company.

Q. Has there been any resolution of the Directors of the Lake Shore Mines, Limited, approving of the form of the stock transfer book ?—A. No, there has been no—

Mr. McCARTHY : What stock transfer book ? There have been three, I think. 30

Mr. WHITE : Oh, no. I would just like to leave the question for a moment as we may not be able to agree just what is a stock transfer book.

Q. I will put it this way : Paragraph 17 says : “ A stock transfer book shall be provided in such form as the board of directors may approve of and all transfers of stock in the capital of the company shall be made in such book and shall be signed by the transferor or by his attorney duly appointed in writing, stock certificates shall be in such form as the board may approve of and shall be under the seal of the company and shall be signed by the President or Vice-President and the Secretary or such other officer in place of the Secretary as the board may by resolution authorize.” Any resolution of the board of Directors approving of the form of the book referred to in Section 17 ?—A. No. 40

- Q. Has there been any resolution approving of the form of the stock certificates?—*A.* No.
- Q. Does the Company, Lake Shore Mines, Limited, provide any stock transfer book other than the one kept by the Transfer Agent?—*A.* No.
- Q. Or either of the Transfer Agents, I should say?—*A.* No.
- Q. Are the shares of Lake Shore Mines, Limited, listed in any stock exchange?—*A.* Toronto, and admitted to trade on the New York Curb, and the London Stock Exchange, and the Montreal Curb.
- 10 Q. London, England, Stock Exchange?—*A.* Yes, Sir.
- Q. And——
- HIS LORDSHIP: Toronto Stock Exchange and the New York Curb, the London Stock Exchange and the Montreal Curb?
- Mr. WHITE: Yes, my Lord.
- Q. Are there any other Transfer Agents except The Trusts and Guarantee Company and the Manufacturers and Traders Trust Company?—*A.* No.
- Q. Have there been any other Letters Patent or Supplementary Letters Patent since Exhibit 2?—*A.* No.
- 20 Q. Has an application ever been made for permission to keep the books out of Ontario?—*A.* No.
- Mr. WHITE: Your witness.
- Cross-examined by Mr. McCARTHY.
- Q. When were you appointed Secretary of Lake Shore?—*A.* 1931.
- Q. Appointed in 1931?—*A.* Yes.
- Q. Who was your predecessor?—*A.* Miss G. Oakes.
- Q. Miss G. Oakes?—*A.* Yes, Sir.
- Q. Was she the Secretary at the time these resolutions were passed?—*A.* Yes, Sir.
- 30 Q. My friend first put in the Letters Patent, which I have seen, and the Supplementary Letters Patent, which I have seen. Then a copy of a resolution passed at the meeting of the directors of Lake Shore Mines held at Kirkland Lake on December 21, 1916, and it is said to be certified a true copy by Kirkland Securities, Limited, Secretary of the Lake Shore Mines, Limited. It is not signed by anybody?—*A.* The certificate is on the front page.
- Q. Oh. But the resolution was not signed, or was it signed? That is just an extract from the Minutes?—*A.* It is an exact copy of the wording of the resolution in the Minute Book.
- 40 Q. And your certificate on the back certifies that it is a true copy of the resolution passed at the meeting of the Lake Shore Mines, Limited, held at Kirkland Lake on December 21, 1916. The Head Office of the Company is at Kirkland Lake?—*A.* Yes, Sir.
- Q. It was then and still is?—*A.* Yes, Sir.
- Q. The books of the Company are kept at Kirkland Lake?—*A.* Yes.
- Q. I was speaking of Exhibit 4. Exhibit 5, my friend, also puts in a

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certified copy of an Agreement between The Trusts and Guarantee Company and Lake Shore Mines, Limited, appointing them Registrar and Transfer Agent of the shares of the capital stock of the Company in Toronto. Then the Trust Company keeps the stock ledger of the stock ledger of the Lake Shore Mines?—*A.* Yes.

*Q.* And is still in possession of that document?—*A.* Yes, Sir.

*Q.* Or that book rather. Then, Exhibit 6, certified to be a copy of a resolution passed at a meeting of the directors held in Kirkland Lake on the 21st of May. “Whereas it is deemed advisable, in the interests of this Company, to appoint a Registrar of its stock in the City of Toronto, 10  
“independent of the Company acting as Transfer Agent,

“And, Whereas, the Royal Trust Company, of the City of Toronto, “have agreed to act as Registrar of the Company :

“Now therefore be it resolved, that the Royal Trust Company be and “is hereby appointed to act as Registrar for the stock of the Lake Shore “Mines, Limited (No Personal Liability), for such considerations . . .” and so on. Then : “Mr. Harry Oakes, President of Lake Shore Mines, Limited, “is hereby authorized and empowered to make all necessary arrangements “with The Royal Trust Company on behalf of this Company.

“Moved by Mr. Wright, seconded by Mr. Martin, that the above 20  
“resolution be accepted and confirmed.” Then Exhibit 7 is the Memorandum of Agreement between Mr. Oakes, representing the Lake Shore Mines, and the Royal Trust Company and in which the Royal Trust Company accepts the appointment on the terms mentioned therein. Then Exhibit 8 is a resolution : “Moved by Mr. Martin, seconded by Mr. Wright, “that the Company hereby designate and appoint Manufacturers and “Traders Trust Company of Buffalo, New York, as an additional Registrar “and Transfer Agent at which office shareholders may have their stock “registered and transferred within the United States of America.” That was apparently passed on the 18th of May, 1927. And certified by Mr. 30  
Doggett as a true copy. Then we have the correspondence between Lake Shore Mines and the Manufacturers and Traders Trust Company, which, I take it, is to be yet identified and proved. This is a letter from G. Oakes advising the Manufacturers and Traders Trust Company, under date of May 28, 1927, that they were appointed as an additional Registrar and Transfer Agent for the convenience of shareholders within the United States, and handing them a certified copy of the resolution passed at the meeting. Then it says “The Transfer Agent in Toronto, the Trusts and “Guarantee Company, Limited, have been notified of your appointment.

“Will you kindly forward to us your form of agreement and schedule 40  
“of charges for the above services.” Attached to that is the resolution.

Then there is a copy of a letter which has not been proved yet, I take it from the Trust Company to the Lake Shore Mines, dated June 6, 1927. “This will acknowledge receipt of your letter of May 28, 1927, enclosing “certified copy of resolution passed by your Board of Directors on May 18, “1927, appointing this bank as additional transfer agent and registrar for “the stock of your company transferable in the United States.” They

very much appreciate the appointment. " We enclose herewith form of  
 " certificate to be executed by your secretary which will give us the  
 " additional information we require. We will, of course, also require a  
 " supply of stock certificates signed and sealed by the proper officers of the  
 " corporation." Then it gives the schedule of fees and so on. Then there  
 is By-law No. 2, a copy of By-law No. 2, which, I take it, was attached.  
 By-laws No. 9, No. 10. And then a specimen certificate, and a certificate  
 in the usual form, Lake Shore Mines, Limited. " Not subject to call.  
 " This certifies that . . . (blank) . . . is the owner of . . . (blank) . . . fully-  
 10 " paid Shares of the Capital Stock of Lake Shore Mines, Limited transferable  
 " only on the Books of the Company in person or by Attorney on surrender  
 " of this Certificate." Then another certificate is attached, which is " Lake  
 " Shore Mines, Limited. Not subject to call. This Certifies that . . .  
 " (blank) . . . is the owner of . . . (blank) . . . non-assessable shares of the  
 " par value of One Dollar each of the Capital Stock of Lake Shore Mines,  
 " Limited, transferable only on the books of the Company in person or by  
 " attorney upon surrender of this certificate properly endorsed. This  
 " certificate is not valid until countersigned by the Transfer Agent and  
 " registered by the Registrar.

In the  
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 Ontario.  
 —  
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 —  
 No. 4.  
 George  
 Farish  
 Doggett.  
 Cross-exa-  
 mination—  
*continued.*

20 " In Witness Whereof the said Company has caused this certificate to  
 " be signed by its duly authorized officers and to be sealed with the Seal of  
 " the said Company . . ." That, I take it, is a specimen. I suppose we  
 will get evidence as to just what they are.

Mr. BRISTOL: I think they are self-explanatory.

Mr. McCARTHY: I would rather have the evidence from someone  
 who can give such evidence. I don't think we can accept, at this stage,  
 counsel's evidence. Then there is another certificate attached. It also  
 certifies so and so as the owner of One Hundred full paid and non-assessable  
 shares, transferable only upon the surrender of the certificate properly  
 30 endorsed, and so on.

Then there are two stubs which, I take it, are also certified, and then  
 there is the usual endorsement on the back of the certificate. And then  
 there is a letter from G. Oakes to the Manufacturers and Traders Trust  
 Company: " In further reference to your favour of the 6th of June, we  
 " hand you herewith duly executed Certificate of Secretary of Lake Shore  
 " Mines, Ltd., together with copy of by-laws, specimen of stock certificate  
 " in use up to September, 1925, specimen of form ' A ' and form ' B ' of  
 " stock certificates now in use, which we trust will fully meet your require-  
 " ments.

40 " The matter of the certificates to be used by you as Transfer Agent  
 " for United States stockholders is being taken up with the engravers, the  
 " Canadian Bank Note Company, Ltd., Toronto."

Mr. McCARTHY: I take it from that that those are not the ones that  
 were subsequently used, but no doubt evidence will be given as to that.  
 That is all of Exhibit 9.

In the  
Supreme  
Court of  
Ontario.

*Q.* Is there a shareholders' Minute Book as well as a directors' Minute Book?—*A.* You mean the Minutes of the Annual Meetings?

*Q.* Yes.—*A.* That is all contained in the Minute Book.

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Evidence.

*Q.* Were these resolutions confirmed at the Annual Meeting, do you know?—*A.* I would not say that. They sometimes pass a resolution confirming all the acts of the directors.

No. 4.  
George  
Farish  
Doggett.  
Cross-exa-  
mination—  
*continued.*

*Q.* Is the book available?—*A.* If you wish me to get the book I think I can get it after.

Mr. McCARTHY: I should like to see it. That is all I wish to ask Mr. Doggett.

10

Re-Examined by Mr. BRISTOL.

Re-exa-  
mination.

*Q.* Then, Mr. Doggett, will you be good enough to go and get the books, and bring them back here?—*A.* What time shall I come back?

*Q.* The sooner you come back the better, and then Mr. McCarthy or Mr. MacTavish can look it over. My learned friend asked you how long you had been Secretary of Lake Shore Mines. You told us earlier you were Secretary of Kirkland Securities, Limited?—*A.* Yes, Sir.

*Q.* And that Company is Secretary of Lake Shore Mines?—*A.* Yes, Sir.

*Q.* So when you said you were Secretary of Lake Shore Mines since 1931 you meant you were Secretary of Kirkland Securities?—*A.* Yes, Sir. 20

Mr. McCARTHY: *Q.* How long have you been Secretary of Kirkland?—*A.* Since 1918.

Mr. BRISTOL: *Q.* You have been Secretary of Kirkland Mines for some time?—*A.* Yes, for the past fifteen years.

Mr. BRISTOL: Thank you.

(Witness retires.)

No. 5.  
Stephen  
Albert  
Smyth.  
Examina-  
tion.

No. 5.

Evidence of Stephen Albert Smyth, sworn.

Examined by Mr. BRISTOL.

*Q.* You are Manager of the Stock Transfer Department of The Trusts and Guarantee Company in Toronto?—*A.* Yes, Sir. 30

*Q.* And have been for how long?—*A.* Twenty-five years.

*Q.* Have you got the original Agreement between The Trusts and Guarantee Company and Lake Shore Mines, Limited, Mr. Smyth?—*A.* Yes, Sir. (Document produced.)

*Q.* You produce an Agreement dated the 21st of December, 1916, between Lake Shore Mines and The Trusts and Guarantee Company, Limited, which is executed by both Companies under their Corporate Seal?—*A.* Yes, Sir.

Mr. BRISTOL: This is the original of Exhibit 5, my Lord. If my friends would like it put in——

Mr. McCARTHY: May I see it for a minute? I suppose we can produce this and have it marked, and then let the witness withdraw it because we have a copy. Suppose we mark it Exhibit 5, and then let Mr. Smyth take it away. I will agree to have it withdrawn and have a certified copy substituted.

HIS LORDSHIP: Very well.

10 Mr. BRISTOL: Q. The Royal Trust Company was appointed Registrar in Toronto in May, 1925?—A. Yes.

Q. Your Company concurred in that appointment and you were only Transfer Agent after that time?—A. Yes, Sir.

Q. You have heard already that the Manufacturers and Traders Trust Company at Buffalo was appointed Registrar and Transfer Agent in May, 1927?—A. Yes.

Q. You were notified of that and concurred in that appointment?—A. Yes, Sir.

20 Mr. McCARTHY: When my friend says "concurred" I don't know what concurrence is necessary. I don't know if there is any importance attached to it.

Mr. BRISTOL: Q. Any change made in the resolution or Agreement appointing you as a result of those appointments of the other Trust Companies?—A. No.

Q. Can you explain what the Registrar of the Royal Trust Company does? So far as your Company is concerned, what do you do?—A. As Transfer Agent we issue new certificates. In the first instance we inspect the certificates for transfer, and examine them, and issue new certificates and send to the Registrar the transfer certificates and the new certificates for registration, and they return both the old and new to us after that.

30 Q. Do they cancel the old certificates?—A. Yes, and we also cancel them before they are sent down.

Q. What is the purpose of a Registrar and then a Transfer Agent—or perhaps I should say in addition to a Transfer Agent?—A. My understanding of Registrar——

Mr. McCARTHY: Is the witness's understanding evidence, my Lord?

HIS LORDSHIP: Oh, I will allow it.

Mr. McCARTHY: I think it is a question of what they do, not what his idea is.

40 Mr. BRISTOL: Is the question objected to?

Mr. McCARTHY: Certainly.

HIS LORDSHIP: I think this witness is quite qualified to answer the question of what the duties are of Registrar as compared to Transfer Agent.

Mr. BRISTOL: He has told us that, my Lord.

In the  
Supreme  
Court of  
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Suppliants'  
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No. 5.

Stephen  
Albert  
Smyth.  
Examina-  
tion—  
*continued.*

In the  
Supreme  
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Evidence.

No. 5.  
Stephen  
Albert  
Smyth.  
Examina-  
tion—  
*continued.*

*Q.* Just explain, shortly, the method of transfer that is carried out by The Trusts and Guarantee Company, Mr. Smyth?—*A.* As Transfer Agent?

*Q.* Yes?—*A.* We receive the certificates from the applicant, for transfer, and examine them and verify their correctness, and issue new certificates.

*Q.* Has that certificate got to be endorsed or accompanied by a transfer form?—*A.* The assignment form on the back of the certificate must be properly executed, and the signature properly guaranteed if unknown to us.

*Q.* I show you stock certificate No. 797, Lake Shore Mines, Limited, that has been marked "Cancelled," and it had been countersigned by The Trusts and Guarantee Company on its original issue. That is your signature?—*A.* Yes, Sir. 10

*Q.* You can identify that certificate as one of the certificates of Lake Shore Mines, Limited, that issued from your office, and was subsequently cancelled?—*A.* Yes, Sir.

Mr. BRISTOL: That certificate is dated October 31, 1917, and is in the name of the late A. D. Williams, and is for One Thousand shares. I will have this marked later, my Lord.

*Q.* Then the certificate bears an endorsement on the back?—*A.* Yes.

*Q.* And I presume all the stock certificates of the Company do likewise?—*A.* Yes. 20

*Q.* And that endorsement is a form of assignment of the shares mentioned on the face of the certificate?—*A.* Yes, Sir.

*Q.* And that has to be signed by the party whose name appears on the face?—*A.* Yes.

*Q.* Now, a certificate of that character is brought in to you to be transferred, and you examine the certificate and see it is properly endorsed for transfer, or a similar form of endorsement for transfer?—*A.* Yes.

*Q.* This form on the back provides for the appointment of an attorney to sell, assign, transfer and set over all or any part of the said stock, and for that purpose to make and execute all necessary acts of assignment and transfer?—*A.* Yes, Sir. 30

*Q.* What is your procedure then? In this particular case the space on the back for the name of the attorney is left in blank?—*A.* Yes.

*Q.* Is that quite frequent?—*A.* Yes.

*Q.* What do you do when you receive the certificate in order to effect transfer?—*A.* The representative of our Company is appointed attorney, and his name filled in as attorney, and he subsequently signs the transfer form.

*Q.* Have you a sample sheet of your transfer book with you? I think you got me one, and—— 40

Mr. McCARTHY: Has it any bearing on the case as to what this Company does?

HIS LORDSHIP: I don't know. The whole issue seems to me to be whether Ontario companies have power under the Act, or outside the Act, to appoint a Transfer Agent within the jurisdiction——

Mr. McCARTHY: I am only concerned with what they did outside the jurisdiction.

Mr. BRISTOL : I think we should have the right to show what is being done. In the Supreme Court of Ontario.

Mr. McCARTHY : Stock can only be transferred on the books of the Company.

Mr. WHITE : Quite a question arises there as to what are the books of the Company. Suppliants' Evidence.

HIS LORDSHIP : I think I understand what is going on. Proceed. No. 5.

Mr. BRISTOL : Q. Are those two sheets— Stephen Albert

Mr. McCARTHY : My friend used a certificate. What is he going to do with it ? Smyth, Examination—

Mr. BRISTOL : Then it can be marked. continued.

Exhibit 10 (Record p. 109). Capital Stock Certificate No. 797, Lake Shore Mines, Limited, issued to the late A. D. Williams, for One Thousand shares. Certificate dated October 31, 1917. On face of certificate appears "Cancelled."

Q. These two sheets I produce to you, Mr. Smyth, bear your signature on them as certified copies ?—A. Yes.

Q. You have compared these with the original sheets contained in your office of the Trusts and Guarantee Company ?—A. Yes, Sir.

20 Q. What do you call those ?—A. This is a copy of the record of transfers made by our Company on April 4, 1940—a certified copy.

Q. Yes. What is the other sheet ?—A. A certified copy of the reported transfers as received from the Manufacturers and Traders Trust Company of Buffalo, under date of April 5, 1940.

Mr. BRISTOL : I will put these in as separate Exhibits, my Lord.

HIS LORDSHIP : Yes.

Exhibit 11 (Record p. 111). Certified copy of record of transfer of shares of Lake Shore Mines, Limited, stock, made through The Trusts and Guarantee Company, Toronto, under date of April 4, 1940.

30 Exhibit 12 (Record p. 112). Certified copy of reported transfers of shares of stock of Lake Shore Mines, Limited, as received by The Trusts and Guarantee Company, Toronto, from Manufacturers and Traders Trust Company, Buffalo, N.Y., under date of April 5, 1940.

Mr. BRISTOL : Q. Exhibit 11 is headed "We, the undersigned owners and holders of Shares in the Capital Stock of (the undermentioned company) for value received do hereby by our respective attorneys duly appointed, respectively assign such Shares of said Capital Stock as in the manner hereunder set forth ; subject to the Act of Incorporation of the Company and its By-laws, Rules and Regulations.

40 "Name of Company : Lake Shore Mines Limited." There is a typewritten name on the left-hand corner "M. Bechill." Who is he ?—A. The attorney nominated by our Company to sign as attorney for the transferors—for the transfers.

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tion—  
continued.

Q. The attorney for the transferors, the holders of the certificates ?—  
A. Yes, Sir ; for the transferors.

Q. Now, this Exhibit 12, you say, is a copy of a report sheet received from the Manufacturers and Traders Trust Company in Buffalo for April 5, 1940 ?—A. Yes, Sir.

Q. You get these reports from that Company daily ?—A. Yes, if they have transfers. That is when the transfers are made there.

Q. Any day they have transfers at their office they send you a copy of their record of transfers, Mr. Smyth ?—A. Yes, Sir.

Q. And do you do likewise with them ?—A. Yes.

Q. Every day on which there are transfers made at your office you send a copy like Exhibit 11 over to the Trust Company in Buffalo ?—A. Yes, Sir.

Q. And that Exhibit 12 bears the same heading at the top as Exhibit 11, only the name of the Manufacturers and Traders Trust Company appears, and it bears a different signature as to the attorney ?—A. Yes, Sir.

Q. The attorney is Mr. Wendel in the Buffalo office of the Manufacturers and Traders Company ?—A. Well, his signature appears on it.

Q. Then when you make this sheet, Exhibit 11, you make an extra copy at the same time ?—A. Yes, we make three or four copies for our own use.

Q. While we are on Exhibit 11, can you tell me are any certificates issued out of the Buffalo office of the Manufacturers and Traders Trust Company—do any certificates appearing on that Exhibit 11 appear as having been transferred at your office ?—A. Yes, certificate BA32781, 50 shares, it was originally issued in Buffalo.

Q. How do you know ?—A. The prefix BA represents Buffalo.

Q. That is BA prefixed to the number ?—A. Yes.

Q. Then Exhibit 12, does it show any transfer in Buffalo of any certificates issued out of your office ?—A. Yes, there are several certificates here issued in our office.

Q. And transferred in Buffalo ?—A. Yes, Sir. Certificates bearing " A " and " D " represent Toronto.

Q. Do you make any reference to the Manufacturers and Traders Trust Company in Buffalo or do they make any reference to you before effecting transfer ?—A. No.

Q. You report the fact you have effected a transfer by sending these reports ?—A. Yes, interchange of the reports.

Q. So the shares are transferable at either office ?—A. Yes, that is right.

Q. Do you keep stock ledgers for the individual shareholders of the Company ?—A. Yes, we do.

Q. I show you some sheets that bear your signature, Mr. Smyth, as certified copies ?—A. Yes, Sir.

Q. What are they ?—A. This is a certified copy of the ledger account of A. D. Williams, Buffalo, N.Y.

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20

30

40

- Q. That is the late Mr. Williams whose estate is a party to this action ?  
 —A. Yes.
- Q. Showing his transactions in the Lake Shore Mines as kept by The Trusts and Guarantee Company ?—A. Yes, Sir.
- Q. That has been compared by you with the original ?—A. Yes, Sir.
- Q. You have not the original with you ?—A. No.
- HIS LORDSHIP : Is this going in with your consent, Mr. McCarthy ?
- Mr. McCARTHY : Not with my consent, my Lord.
- HIS LORDSHIP : Then it can't go in.
- 10 Mr. WHITE : I don't think my friend is objecting because it is not  
 the original, but his objection is because—
- Mr. McCARTHY : I am objecting to it because it is a certified copy.
- Mr. BRISTOL : May we mark it in the meantime for identification,  
 my Lord ?
- HIS LORDSHIP : Yes.
- Exhibit 13 (Record p. 113). Certified copy of the ledger account  
 of A. D. Williams, Buffalo, N.Y. as copied from the original in the  
 stock shareholders ledger of the Lake Shore Mines, Limited, at the  
 office of The Trusts and Guarantee Company, Toronto (Four sheets).  
 20 Marked for identification.
- WITNESS : We have to keep the original sheets in the office or we  
 can't balance our books, so—
- HIS LORDSHIP : Now, I understand that. Mr. McCarthy wants to  
 see them.
- Mr. BRISTOL : Q. Loose-leaf sheets, is it ?—A. Yes, Sir.
- Q. And they are in daily use ?—A. Yes.
- Mr. McCARTHY : If my friend had let me in on this matter I would  
 have tried to co-operate with him so as not to put the Trust Company to  
 any inconvenience, but I didn't know.
- 30 Mr. BRISTOL : We will arrange to bring up the original, and we will  
 have them marked, and you can take them away.
- Mr. McCARTHY : You can substitute copies later.
- Mr. BRISTOL : Q. After the transfer is effected I take it you make  
 an entry in the stock ledger sheet for the transferor and the transferee,  
 debiting one and crediting the other for the number of shares transferred ?  
 —A. Yes.
- Q. You keep these stock ledger sheets in loose-leaf books ?—A. Yes,  
 alphabetically arranged.
- Q. Any other books kept by you for stock arrangements other than  
 40 sheets like Exhibit 11, and stock sheets which are marked as Exhibit 13 ?—  
 A. No, Sir. Well, a stock certificate book.
- Q. Do you mean a book containing blank stock certificates ?—A. Yes.
- Q. Are they in bound form ?—A. They are loose.
- Q. There are no entries made on the stubs of those certificates ?—A. No.
- Q. The modern certificate has no stub at all ?—A. No, Sir.

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No. 5.

Stephen  
 Albert  
 Smyth.  
 Examina-  
 tion—

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Stephen  
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Smyth.  
Examina-  
tion—  
*continued.*

Q. Do you ever refer any stock transfers to the Head Office of Lake Shore Mines before putting it through?—A. No, but we refer them to the solicitor for the Company though.

Q. In what cases?—A. In case of transfers from an estate.

Q. You submit all the documents including a copy of the Probate, and so on, for their approval?—A. Yes.

Q. Your Agreement with the Lake Shore Mines provides for that and sets out the name of the solicitor?—A. Yes, Sir.

Q. That Agreement is Exhibit 5. Have you received, or have you got with you the advice sheet from the Manufacturers and Traders Trust Company of May 2nd?—A. No, Sir; I have not. 10

Q. Have you had occasion to examine it?—A. No, Sir; I have not.

Q. The stock certificates issued out of your office are prefixed in what way?—A. There are two series, a blank series marked "A" and there is a series of One Hundred shares with the One Hundred shares printed in, and that is marked "B." There are just the two series in use at present.

Q. Then the certificates issued by your office in Toronto bear either "A" or "B" and the number?—A. Yes.

Q. The Buffalo ones bear the prefix "BA"?—A. Yes, that is right.

Q. When the Manufacturers and Traders Trust Company were appointed was a new form of stock certificate got out? Was there any change made in the stock certificate other than the addition of their name as Registrar and transferors? This Exhibit 10 is countersigned on the left hand side: "Countersigned: THE TRUSTS AND GUARANTEE COMPANY, LIMITED, Toronto, Canada." This certificate was issued on October 31, 1917?—A. Yes, that is right. 20

Q. The certificates issued by the Manufacturers and Traders Trust Company, are they in any way different from this?—A. This was the original certificate supplied to our Company as Transfer Agents when first appointed. It has been changed. There is a steel engraved certificate in use now. 30

Q. I show you a certificate, part of Exhibit 9, No. A0000, a brown colour; and certificate B0000, a grey colour?—A. Those are the forms now in use by the Royal Trust Company and our Company.

Q. In use by you and them?—A. Yes.

Q. The certificates issued by the Manufacturers and Traders Trust Company in Buffalo, are they in any way different?—A. The form of certificate is entirely the same only instead of the name of our Company there is the name of the M. and T. on it. There is a different signature.

HIS LORDSHIP: Q. The M. and T. Company are both Registrar and Transfer Agent?—A. Yes, Sir. 40

Mr. BRISTOL: That is all.

Cross-examination.

Cross-examined by Mr. McCARTHY.

Q. You have produced the original Memorandum of Agreement of December, 1916, between your Company and Lake Shore Mines, in which you were appointed both Registrar and Transfer Agent?—A. Yes, Sir.

Q. Is that Agreement in effect yet, or still?—A. Yes, all except the fees have been changed.

Q. I see there is a provision that “The Company shall forthwith cause to be delivered to the said Trust Company all Stock Certificates that it has had printed, and where any such Certificates have been used the stubs of such Certificates and any Certificates that may have been cancelled shall also be forthwith delivered to the Trust Company and all new supplies of Stock Certificates, whether numbered or unnumbered, and whether bound in books or unbound, shall immediately upon being completed by the printer or engraver be delivered to the said Trust Company.” That is still in effect?—A. Yes, and as a matter of fact we order the certificates.

Q. And they are retained by your Company?—A. Yes, Sir.

Mr. BRISTOL: I missed one point. I have a specimen of certificate issued in Buffalo, my Lord.

HIS LORDSHIP: Very well.

Mr. BRISTOL: Q. Do you identify that as a certificate issued out of your office, or rather issued out of the office of the Manufacturers and Traders Trust Company in Buffalo?—A. Yes, Sir.

20 Q. That bears the signature of somebody on behalf of Kirkland Securites, Limited?—A. Yes.

Q. Do you recognize that signature?—A. Yes.

Q. This certificate bears at the bottom these words: “This certificate may be transferred at Toronto or Buffalo”?—A. Yes, Sir.

Q. Does that wording appear on the certificates you issue?—A. Yes.

Exhibit 14 (Record p. 117). Certificate No. BA1230, Lake Shore Mines, Limited, issued from the office of Manufacturers and Traders Trust Company, Buffalo, N.Y.

Mr. BRISTOL: Thank you.

30 Mr. McCARTHY: Q. My friend has produced a certificate of the Lake Shore Mines which you say was the form of the certificate as originally issued?—A. Yes.

Q. And that has been marked as Exhibit 10. Those certificates were issued by your Company, I take it?—A. Yes.

Q. And a record kept in the transfer books?—A. Yes, Sir.

Q. In the usual way?—A. Yes.

Q. That is, when a certificate is brought in to your office for transfer if it is properly endorsed you retain the certificate that is handed in and issue a new one?—A. Yes, Sir.

40 Q. And you make the records in the books in the ordinary way?—A. That is right.

Q. Then you say at the same time you enter the record in your books you send a notification to Buffalo that this transfer has been made in your books; and my friend has put in certain sheets to show how the record is kept?—A. Yes, Sir.

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Stephen  
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Stephen  
Albert  
Smyth.  
Cross-exa-  
mination—  
*continued.*

Q. I think Exhibit 11 is the record you keep in your books ?—A. Yes.

Q. And a copy of this is sent to the Trust Company in Buffalo ?—  
A. Yes.

Q. And Buffalo sends you a copy of their transactions for the day,  
which appears in Exhibit 12, or a copy of that ?—A. Yes, Sir.

Q. What about the certificates that are issued in Buffalo ? Are they  
sent to you for cancellation ?—A. The transferred certificates ?

Q. Yes ?—A. No. Sir.

Q. They keep those themselves ?—A. Yes.

Q. Do you send certificates which you order to Buffalo or do they have  
their own printed ?—A. We send them. 10

Q. The certificates are all numbered, so when you ordered a bundle  
of certificates you would send them to Buffalo and keep a record in your  
office of the number sent ?—A. We have them signed and sent on to them  
just as they require them. They requisition them.

Q. You keep them on hand and they requisition them ?—A. Yes,  
Sir.

Q. This is the form in use now ?—A. Yes.

Q. For how long has it been in use ?—A. Since perhaps November of  
1925. I think that is the date. 20

Q. Those are the certificates which are issued both by your office,  
and the same form used in Buffalo ? In fact, you send the forms to  
Buffalo ?—A. Yes.

Q. Any way you designate whether it is issued by your office or  
Buffalo ?—A. Only by the countersigning. Also "BA" prefixes—the  
prefix "BA" means issued in Buffalo.

Q. The M and T are also the Registrar and Transfer Agent in Buffalo ?  
—A. Yes, Sir.

Q. That is the way it is carried out ?—A. Yes.

Q. Exhibit 13, I understand, is a record of the late Mr. Williams' 30  
transactions in the Lake Shore mining stock ?—A. Yes, that is a copy of  
the original sheets—that is the date of issue, and the certificate numbers,  
and the number of shares purchased.

Q. I see. They all went through your office, did they ?—A. I am not  
positive about that. No, those last two certificates were issued by Buffalo  
transfer.

Q. Sheets number 1, 2 and 3 represent the transactions of the late  
Mr. A. D. Williams in the shares of the Lake Shore Mines Company as  
contained in your office ?—A. Yes, Sir.

Q. All the items shown on sheet number 4—sheet 4 is a record of the 40  
transfers received from the Buffalo office and which you kept a record  
of ?—A. Yes, Sir.

Mr. McCARTHY: Then I will accept these as records from Mr.  
Smyth's books. I don't wish to have the originals, my Lord. That is all  
I want, thank you, Mr. Smyth.

HIS LORDSHIP: Very well.

Re-examined by Mr. BRISTOL.

Q. Exhibit 13. These transactions which are recorded in these ledger sheets, Exhibit 13, are in chronological order?—A. Yes.

Q. And it just so happens that the last two entries show transfers made in Buffalo?—A. Yes.

Q. And if they had been made earlier they would have been put in in their chronological order?—A. Yes, Sir.

Q. You composed this, in other words, from both your own records——

10 Mr. McCARTHY : If my friend is going to enlarge this I may have to have the originals brought up.

Mr. BRISTOL : I beg your pardon, Mr. McCarthy.

Q. Did the Trusts and Guarantee Company ever use this certificate form "BA," Exhibit 14?—A. No.

Mr. McCARTHY : He said the certificates are the same.

HIS LORDSHIP : The witness has said it is the same certificate except it is countersigned by a different bank, and bears a different prefix.

Mr. WHITE : Q. Are the words "transferable at Toronto or Buffalo" on both classes of certificates?—A. Yes, as far as I know they are.

Mr. BRISTOL : That is all.

20

(Witness retires.)

In the  
Supreme  
Court of  
Ontario.

Suppliants'  
Evidence.

No. 5.  
Stephen  
Albert  
Smyth.  
Re-exa-  
mination.

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No. 6.

Evidence of William Robert Wendel.

Examined by Mr. WHITE.

Q. You are the clerk in charge of the stock transfer department of the Manufacturers and Traders Trust Company of Buffalo, New York?—A. Yes, Sir; I am.

Q. How many years' experience have you had as such?—A. Better than ten years.

30 Q. Do you recognize these documents as documents received by your Company, and I am referring to Exhibit 9. Do you recognize them as having been received from Lake Shore Mines?—A. Yes, it was taken from our files.

Q. And this certificate attached, May 20, 1927?—A. Yes, Sir.

Q. And this is a copy of a letter you sent to Lake Shore Mines, dated June 6, 1927?—A. Yes, Sir.

Mr. McCARTHY : The original must be with Lake Shore Mines, I take it.

Mr. WHITE : We have not the original here.

No. 6.  
William  
Robert  
Wendel.  
Examina-  
tion.

In the  
Supreme  
Court of  
Ontario.

Suppliants'  
Evidence.

No. 6.  
William  
Robert  
Wendel.  
Examina-  
tion—  
*continued.*

Q. And this is a copy of the By-laws of the Company received by you with one of these letters?—*A.* The By-laws were received by us with their letter of June 28th, 1927.

Q. And the stock certificate specimen the same?—*A.* Yes, that is right.

Q. And the Certificate of Secretary?—*A.* That is correct.

Mr. WHITE: That will be marked now, I assume, my Lord?

HIS LORDSHIP: Yes, Exhibit 9.

Mr. WHITE: Q. Was there—

HIS LORDSHIP: Have you Exhibit 13 now, Mr. McCarthy? It 10  
was put in for identification.

Mr. McCARTHY: Yes.

Mr. BRISTOL: And Exhibits 11 and 12 as well, Mr. McCarthy?

Mr. McCARTHY: Yes, they were specimen sheets.

Mr. WHITE: Q. Was there ever any formal Agreement between your Company and Lake Shore Mines, Limited?—*A.* Never.

Q. Has your Company ever been notified of the appointment of any other Transfer Agent or Registrar other than yourself—your Company—and The Trusts and Guarantee Company?—*A.* We have never been notified of any other. 20

Q. And the Royal Trust Company as Registrar?—*A.* Yes, Sir.

Q. You are both Transfer Agent and Registrar?—*A.* That is correct.

Q. Then following your appointment what procedure or what proceeding was adopted; or what is the usual procedure, in the first place, and did you follow it?—*A.* The usual procedure when a Co-Transfer Agent is appointed the one that is already acting will furnish the Co-Transfer Agent with the stockholders list showing the names and addresses of the shareholders, and the number of shares they hold altogether, with the certificate numbers and denominations.

Q. Did you receive such from The Trusts and Guarantee Company?— 30  
*A.* As from the 1st of June, 1927, The Trusts and Guarantee Company forwarded such stockholders list and we set up our ledger from that list.

Q. In what form do you keep your ledger records?

Mr. McCARTHY: Are we interested in what form they adopted?

Mr. WHITE: I might as well say now what is in our minds about it. We submit these books are of importance when the question of the transfer is to be considered.

HIS LORDSHIP: Well, perhaps. All right.

Mr. WHITE: Q. You open up a ledger sheet of which you now produce two. One a white one, and one a pink one?—*A.* Yes, Sir. 40

Q. The white is for what purpose, what kind of shares?—*A.* The white ones were used for recording transactions that took place at The Trusts and Guarantee Company.

Q. Those are for the individual shareholders?—*A.* Yes, Sir; and they

send us a daily advice and from that daily advice we post our ledger records.

Q. On the white sheets?—A. Yes, Sir.

Q. And the pink ones?—A. The pink one is the one we use for our own transfers we make out daily, and an advice is furnished to Toronto.

Q. You make entries in these from your record of transfers?—A. Yes, Sir.

Q. When a transfer is made you make the necessary entry in the individual ledger sheet?—A. Yes, Sir.

10 Q. I show you Exhibit 12. Is this a sample of your transfer book, or whatever you call it, of the place where the actual transfer is made?  
—A. A copy of the original journal, as we call it, that was sent to The Trusts and Guarantee Company for the transfers we made that day.

Q. A copy of the actual document by which the transfer is made?

Mr. McCARTHY: In their books?

HIS LORDSHIP: It is merely a record.

Mr. McCARTHY: I submit it is not a record.

Mr. WHITE: Q. When a transfer is to be made the certificate, I take it, is brought in?—A. Yes.

20 Q. With the transfer on the back of it?—A. That is correct.

Q. Appointing an attorney to make the transfer?—A. Not always.

Q. It may be left in blank?—A. It may be.

Q. It says “. . . do hereby constitute and appoint . . . (blank) . . .”?  
—A. Yes.

Q. As attorney to make the transfer with the bank?—A. Yes, Sir.

Q. And here is the document, I take it, upon which that transfer is made?

Mr. McCARTHY: My friend is putting the evidence in the witness' mouth. I say it is not a record.

30 Mr. WHITE: Q. Is there any other place, or book, or documents by which a transfer is made?—A. I cannot truthfully answer that because I do not know.

Q. I mean in your office?—A. There is no other book, no.

Q. So when a transfer comes in—. I will put it this way: What do you do?—A. When the certificate is received it is checked for the endorsement signature guarantee necessary when taking an assignment to a new holder. If it is in satisfactory form the new certificate is issued, and is then set out on that advice journal.

Q. It is called 31P?—A. That is merely the printing number.

40 Q. But that is the number of the form?—A. Yes.

Q. Yes?—A. And then the certificates are countersigned by authorized officers of the bank.

Q. Of the Trust Company?—A. Yes, and then a copy of that is sent to The Trusts and Guarantee Company.

Q. Suppose a certificate comes in appointing John Jones as attorney to effect the transfer, and John Jones brings the certificate in—what?—

In the  
Supreme  
Court of  
Ontario.

Suppliants'  
Evidence.

No. 6.  
William  
Robert  
Wendel.  
Examina-  
tion—  
continued.

In the  
Supreme  
Court of  
Ontario.

Suppliants'  
Evidence.

No. 6.  
William  
Robert  
Wendel.  
Examina-  
tion—  
*continued.*

*A.* We would have John Jones sign off his Power of Attorney and have it in blank.

*Q.* What is the meaning of your signature on these?—*A.* Because I pass on all the transfers.

*Q.* As what?—*A.* As Attorney for the bank.

*Q.* Still looking at Exhibit 12. It is headed "We, the undersigned "owners and holders of Shares in the Capital Stock of Lake Shore Mines "Limited for value received do hereby by our respective attorneys duly "appointed. . . ." Who acts as attorney for the owner in case of a transfer which comes in where the attorney has not been appointed?— 10

*A.* The person who actually makes the transfer.

*Q.* And in this particular case who was it?—*A.* In that particular case I was.

*Q.* Do you identify Exhibit 11 as a sample of the sheet from the Toronto office of The Trusts and Guarantee Company?—*A.* Yes, Sir; that is.

*Q.* Then, how do you obtain the certificates which you issue?—

*A.* We obtain them from The Trusts and Guarantee Company on our requisition.

*Q.* Already signed by the President and Vice-President?—*A.* Yes, 20 they are already signed and sealed when delivered to us.

*Q.* And they are issued on the counter signature of your officer?—

*A.* Yes, Sir.

*Q.* What is the purpose of the daily exchange of this information between your Company and the Toronto Company?—*A.* So that the ledger records we have and the ledger records they have are in comparison at all times, and no certificate that is not authorized to be outstanding is transferred at both places.

*Q.* We have already been told, and I don't suppose there is any dispute about it, that certificates that have been issued in Toronto can be 30 accepted in Buffalo?—*A.* Yes, Sir.

*Q.* And certificates issued in Buffalo can be transferred in Toronto at The Trusts and Guarantee Company?—*A.* Yes, Sir.

*Q.* When you get a certificate in the ordinary case, that is a certificate with the transfer duly executed, do you refer that to anybody or do you make the transfer yourselves?—*A.* We refer no transfer to any one unless it should be the stock of a deceased person, and in that instance the legal papers are submitted to Mr. Ferguson of Slight and Ferguson.

*Q.* They are solicitors for whom?—*A.* The Lake Shore Mines.

*Q.* Can you tell us from your records when the late A. D. Williams— 40  
(Question withdrawn by Counsel.)

*Q.* Have there been any transactions with respect to the shares held by Mr. Williams since Exhibit 13, the last transaction here is February 29, 1932?—*A.* On May the 2nd of this year.

*Q.* Yes?—*A.* I transferred 10,200 shares from the name of A. D. Williams, Alexander Duncan Williams, to the legal representatives of his Estate—

Q. Who ?—A. Eva May Williams and Reginald Victor Williams.  
 Q. New certificates were issued in Buffalo ?—A. Yes, Sir.  
 Q. Is this the cancelled certificate with regard to One Hundred of those shares, Exhibit 14 ?—A. Yes, Sir.

In the  
Supreme  
Court of  
Ontario.

Q. It is BA1320 ?—A. Yes, Sir.

Suppliants'  
Evidence.

HIS LORDSHIP : Did you put the white and pink sheets in, Mr. White ?

Mr. WHITE : They will be the next Exhibit.

No. 6.

10 Exhibit 15 (Record p. 119).—White sheet used for purpose of recording transactions of shareholders with Trusts and Guarantee Company, Toronto. Pink sheet used for purpose of recording transactions of shareholders with Manufacturers and Traders Trust Company, Buffalo, N.Y.

William  
Robert  
Wendel.  
Examina-  
tion—  
*continued.*

Q. Exhibit 14 is stamped "Cancelled, May 2, 1940. Mfgrs. and "Traders Trust Company, Stock Transfer Department" ?—A. Yes, Sir ; that is right.

Mr. WHITE : Take the witness.

Mr. McCARTHY : No questions.

(Witness retires.)

20

### No. 7.

#### Evidence of Eric C. Anderson.

No. 7.  
Eric C.  
Anderson.  
Examina-  
tion.

Examined by Mr. BRISTOL.

Q. You are the manager of the Stock Registry Department of the Royal Trust Company in Toronto ?—A. Yes, Sir.

Q. That Company acts as Registrar in Toronto of the Lake Shore Mines, Limited, stock ?—A. Yes.

Q. You produce, and there has been filed as Exhibit 7, the original Agreement dated the 21st of May, 1925, between your Company and the Lake Shore Mines, Limited ?—A. Yes, Sir.

30 Q. I have a copy here which says "compared with the original" ?—A. Yes.

Mr. McCARTHY : I am content to have a copy go in, to substitute a copy, and Mr. Anderson can have the original back.

Mr. BRISTOL : Q. Then what are your duties as Registrar with the Royal Trust Company ?—A. To guard against an over issue of stock.

Q. And what do you do ?

Mr. McCARTHY : Are we concerned about that in this case ?

HIS LORDSHIP : I don't know.



In the  
Supreme  
Court of  
Ontario.  
—  
Suppliants'  
Evidence.  
—  
No. 7.  
Eric C.  
Anderson.  
Examina-  
tion—  
*continued.*

Mr. BRISTOL: Q. Describe your procedure?—A. The Transfer Agent signs—

Q. That is The Trusts and Guarantee?—A. Yes, to cancel the stock transfer which has been presented for transfer, and a new certificate issues therefrom.

Q. That is all you get?—A. Yes.

Q. What do you do?—A. We examine the cancelled certificate to see it has the proper signature, and as to the number of shares, and see that the new certificate or certificates are issued for the shares, and then we cancel the old certificates, and countersign the new ones as Registrar, and we return 10 both of them to The Trusts and Guarantee Company.

Q. Do you do anything in connection with certificates issued by the M. and T. or transfers going through there? Do you perform any duties in respect of those certificates?—A. In regard to certificates issued from Buffalo?

Q. Do you countersign the new certificates issued by the M. and T. Trust Company?—A. No, Sir.

Q. You don't?—A. No, no.

Q. But I gather one of those certificates may be presented for transfer in Toronto?—A. Yes, Sir. 20

Q. And then sent to you for transfer?—A. Yes.

Q. What record do you keep as Registrar?—Can you show us a sample sheet of your record?—A. I—.

Mr. McCARTHY: Oh, do we need to clutter up the Record any more?

Mr. WHITE: We are not cluttering up the Record.

Mr. BRISTOL: Q. This (showing witness a document) is a sample sheet from your book?—A. Yes, an exact copy.

Q. It starts the 27th of April and concludes with May 1st?—A. Yes, Sir.

Q. What year?—A. 1940.

Q. It shows on the left-hand side the certificates cancelled, and the 30 certificate number; and the right-hand side shows the certificates issued, the certificate number and the number of shares?—A. Yes, Sir.

Q. It doesn't show any names of shareholders or any other particulars?  
—A. No.

Q. That is all the record you keep?—A. Yes, that is all.

Q. Have you the original of this with you?—A. No, Sir.

Mr. McCARTHY: I will accept that.

Mr. BRISTOL: I will put this in, my Lord.

Exhibit 16 (Record p. 120). Certified copy of Registry of Capital Stock of Lake Shore Mines, Limited, April 27, 1940, to May 1, 1940, 40 showing on the left-hand side the certificates cancelled, certificate number and number of shares; and on the right-hand side the certificates issued, certificate number and number of shares.

Mr. BRISTOL: That is all.

Mr. McCARTHY: No questions.

(Witness retires.)

## No. 8.

## Evidence of Reginald Victor Williams.

In the  
Supreme  
Court of  
Ontario.Suppliants'  
Evidence.No. 8.  
Reginald  
Victor  
Williams.  
Examina-  
tion.

Examined by Mr. WHITE.

- Sir. Q. Mr. Williams, you are a resident of Buffalo, New York ?—A. Yes,
- Q. And a son of the late Alexander Duncan Williams ?—A. Yes, Sir.
- Q. And one of the Executors of his Will ?—A. Yes, Sir.
- Q. That was probated in New York State ?—A. Yes.
- Q. In the County of what ?—A. Erie.
- 10 Q. And Supplementary Ancillary Letters Probate were granted for Ontario ?—A. Yes, Sir.
- Q. Your part of the estate, we are told, was 10,200 shares of Lake Shore Mines, Limited ?—A. Yes, Sir.
- Q. On your father's death can you tell us where those certificates were at that time ?—A. They were in our strong box. We have a vault at our plant.
- Q. What is your plant ?—A. The Williams Gold Refining Company.
- Q. And those certificates were in the vault of the Company ?—A. Yes.
- Q. In what sort of place in the vault ?—A. In a separate strong box.
- 20 Q. Whose strong box ?—A. We had it. It was ours.
- Q. Who do you mean ?—A. My dad and I.
- Q. Where was the office ?—A. In Buffalo.
- Q. Had you known of your father's purchase of these shares ?—A. Yes,
- Sir. Q. And for some time before his death do you know where the certificates were kept ?—A. They were always in our vault.
- Q. From the time of purchase ?—A. Yes, Sir.
- Q. I show you Exhibit 14, and ask you if this is one of the certificates to which you refer ?—A. It is.
- 30 Q. And I show you certificate No. 797 for One Thousand shares. Is that also one ?—A. Yes, Sir ; that is.
- Q. Altogether you told us there were 10,200 shares ?—A. Yes, Sir.
- Q. Have you paid the Death Duty to the Federal United States Government ?
- Mr. McCARTHY : I object to that, my Lord. We have nothing to do with that.
- HIS LORDSHIP : I will admit it. Proceed.
- Mr. WHITE : Q. On those shares ?—A. Yes, Sir.
- Q. About how much ?—A. About Ninety Thousand Dollars.
- 40 Q. Is that to the Federal Government alone ?—A. Federal and New York State.
- Q. In respect to these shares you have paid already Ninety Thousand Dollars ?—A. I think it is Eighty-eight Thousand Dollars.
- HIS LORDSHIP : Q. On these 10,200 shares alone ?—A. Yes, Sir.

In the  
Supreme  
Court of  
Ontario.

Mr. WHITE : *Q.* And that was in addition to the amount paid under protest in this Province ?—*A.* Yes, Sir.

Mr. WHITE : Your witness.

Mr. McCARTHY : No questions.

(Witness retires.)

Suppliants'  
Evidence.

No. 8.  
Reginald  
Victor  
Williams.  
Examina-  
tion—  
*continued.*

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**No. 9.**

**Evidence of James O. Moore.**

No. 9.  
James O.  
Moore.  
Examina-  
tion.

Examined by Mr. BRISTOL.

*Q.* Mr. Moore, you are an attorney, I understand, practising your profession in Buffalo ?—*A.* I am. 10

*Q.* Would you kindly outline your experience and qualifications as an exponent of the laws of the State of New York ?—*A.* I would have practised my profession forty-one years coming July. My practice has been Litigated work, Appellate work, Corporate work, and some Estates, during that whole period of time.

*Q.* Have you occupied any official position in the Bar Association of your State ?—*A.* I was an Assistant United States Attorney for two years, and been a Trustee of the Bar Association. I think those are the positions I held.

*Q.* Mr. Moore, will you state what is the law of the State of New York with regard to the Courts of that State having jurisdiction in the case of foreign corporations maintaining transfer agencies in the State to compel the foregoing corporation or its Transfer Agent to effectuate transfers presented to them when presenting certificates ?—*A.* It has jurisdiction. 20

*Q.* Upon what do you base that view ?—*A.* Upon the law of New York State, and the decisions of the New York Courts, particularly the Court of Appeals of the State of New York.

*Q.* Is there any statute that bears on the situation ?—*A.* There is a statute which gives the right to a corporation, domestic or foreign, or resident or non-resident in some instances to institute actions and conduct actions in the Courts of New York State against foreign corporations. 30

*Q.* I mean in your general Corporation Law, Stock Corporation Law. Any provisions as to foreign corporations maintaining offices for transaction of business in the State ?—*A.* There is a provision of the Stock Corporation Law which requires foreign stock corporations doing business in New York State to maintain by itself or agent a stock book showing the names of the shareholders, their address, and the number of shares held by it. That may be kept in the office of the Transfer Agent, or the office of the corporation if it has an office other than that of its Transfer Agent.

Q. Does that section confer jurisdiction on the Courts of New York to compel, in such cases, an entry of transfer or change of an entry in that regard—transfers?—A. That section doesn't confer the jurisdiction, but the Court has the jurisdiction irrespective of that section. That section prescribes the duty, and for any dereliction of the duty the Court has jurisdiction to correct it. There are cases on that point.

Q. The jurisdiction, irrespective of that section, or that statute, rests upon what?—A. First upon the jurisdiction of the Court to grant relief to any litigant to secure the rights of the litigants and their property, and then there is Section 224 of the General Corporation Laws which confers upon the Courts jurisdiction in actions against foreign corporations, and—

Q. Well, is it based at all upon maintenance of an office or Transfer Agency?—A. It is not, but to get jurisdiction for the foreign corporation it must be present in some way in the State of New York.

Q. You have heard the evidence that Lake Shore Mines, an Ontario corporation, which is a foreign corporation in the eyes of New York State law, had appointed the Manufacturers and Traders Trust Company of Buffalo as Transfer Agent. Now, does that, in your opinion, bring Lake Shore Mines, Limited, within the jurisdiction of the New York Courts to compel entries of transfer?—A. No,—and there is a list of New York decisions of the Court of Appeals—unless Lake Shore Mines is present in the State of New York by virtue of its maintaining a Transfer Agency, and that presence in the State of New York gives the Court jurisdiction over it—to a limited degree, of course.

Q. You mentioned that the New York Court of Appeal had in a case decided that point?—A. Yes, sir.

Q. Can you give the reference to that point?—A. In *Lockers vs. United States Steel Company*, 209 C. A. Reports, 375—that was held. In *Traves vs. Knox Terpezone*, 215 New York Court of Appeals, I think, at 289, the same thing was held.

Q. In that *Traves and Terpezone* case—who was the Judge who delivered the judgment?—A. By Judge Cordoza who was then a Judge of the Court of Appeals. Whether he was Chief Judge I don't know. Later he was on the Supreme Court of the United States. He was first a Supreme Court Justice, and then he was appointed by the Government to the Court of Appeals, and then he was elected Judge of the Court of Appeals, and then he was elected Chief Judge of the Court of Appeals, and then subsequently appointed by President Hoover to The Supreme Court of the United States, where he sat until his death not so long ago.

40 Mr. BRISTOL: Your witness.

Mr. McCARTHY: No questions.

(Witness retires.)

Mr. WHITE: That is the case.

HIS LORDSHIP: Are you offering any evidence, Mr. McCarthy?

In the  
Supreme  
Court of  
Ontario.

Suppliants'  
Evidence.

No. 9.  
James O.  
Moore.

Examina-  
tion—  
*continued.*

In the  
Supreme  
Court of  
Ontario.

Mr. McCARTHY : No, my Lord.  
HIS LORDSHIP : Then we will adjourn for lunch now. Two o'clock  
this afternoon.  
(12.55 p.m. adjourned until 2.00 p.m.)

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Upon Resuming at 2.00 p.m. :—  
Argument by Mr. White, 2.00 p.m. to 3.20 p.m.  
Argument by Mr. McCarthy 3.20 to 4.40 p.m.  
Reply by Mr. White 4.40 p.m. to 4.55 p.m.

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HIS LORDSHIP : I will reserve judgment.

No. 10.  
Formal  
Judgment,  
15th May,  
1940.

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**No. 10.**  
**Formal Judgment.**

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The Honourable Mr. Justice McTAGUE.

Wednesday, the 15th day of May, 1940.

L.S.

(\$2.40.)

Between :

EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS,  
Executors of the Will of ALEXANDER DUNCAN WILLIAMS,  
deceased ... .. *Suppliants,*

and

20

HIS MAJESTY THE KING as represented by the ATTORNEY  
GENERAL FOR ONTARIO ... .. *Respondent.*

(Seal)

The Suppliants' Petition herein coming on for trial on the 4th day of  
May, 1940, at the sittings holden at Toronto for the trial of actions without  
jury, in the presence of Counsel for the Suppliants and the Respondent,  
upon hearing read the pleadings and hearing the evidence adduced and  
what was alleged by Counsel aforesaid, this Court was pleased to direct  
this Petition to stand over for judgment, and the same coming on this day  
for judgment,

30

1. THIS COURT DOTH ADJUDGE AND DECLARE that the 10,200 shares  
of Lake Shore Mines Limited, the property of the said Alexander Duncan  
Williams, deceased, were not property situate in Ontario passing on his  
death and were not subject to Succession Duty in Ontario.

2. AND THIS COURT DOTH FURTHER ADJUDGE AND DECLARE that the  
Suppliants are entitled to be repaid the sum of \$65,336.17, representing



Succession Duty paid by them to the Treasurer of Ontario in respect of the said shares, with interest on the said sum at four per cent. per annum from the 22nd day of July, 1935.

3. AND THIS COURT DOETH FURTHER ADJUDGE AND DECLARE that the Suppliants are entitled to be paid their costs of and in connection with their said Petition and the trial thereof.

Judgment signed this 5th day of June, A.D. 1940.

CHAS. W. SMYTH,  
*Registrar.*  
S.C.O.

In the  
Supreme  
Court of  
Ontario.

—  
No. 10.  
Formal  
Judgment,  
15th May,  
1940—  
*continued.*

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No. 11.

**Reasons for Judgment of Mr. Justice McTague.**

McTAGUE J.—Alexander Duncan Williams, a citizen of the United States of America domiciled in the City of Buffalo, New York, died on the 22nd day of July, 1934, Letters Probate were granted to the Suppliants as executors of his Will by the Surrogate Court of Erie County, in the State of New York, on the 2nd day of August, 1934. At the time of his death the deceased owned in Ontario certain real estate, credit balances in banks and securities. In addition he was the owner of 10,200 shares of the capital stock of Lake Shore Mines Limited, a company incorporated under the Ontario Companies Act operating in Ontario and having its head office in this Province. On application for ancillary Letters Probate in Ontario Suppliants filed a statement showing the assets of the deceased in Ontario, but maintained that the shares of Lake Shore Mines Limited were property situated outside the Province and not liable to succession duty. No question arises as to the liability for duty on the other assets. It has been paid. The Provincial Treasurer contended on the other hand that the shares of Lake Shore Mines Limited were property situate in Ontario and liable to duty. As a condition to releasing the other Ontario assets the Treasurer required the Suppliants to pay the sum of \$78,000 estimated duty. This was paid on the 22nd day of July, 1935. It is admitted by the Respondent that the payment was made under duress and compulsion and subject to protest. It is also admitted that the amount now in dispute as of July 22nd, 1935, is \$65,336.17, the difference between that sum and \$78,000 required to be paid being duty for which the Suppliants admit liability plus a small refund of \$1,347.68 made by the Treasurer. By their petition of right Suppliants ask for a declaration that the 10,200 shares of Lake Shore Mines Limited owned by the testator are not subject to succession duty in Ontario and that they are entitled to refund of the sum of \$65,336.17, with interest from the date of payment, July 22nd, 1935.

30  
40

The liability of the Suppliants for the duty sought to be imposed

No. 11.  
Reasons for  
Judgment  
of Mr.  
Justice  
McTague.

In the  
Supreme  
Court of  
Ontario.

No. 11.  
Reasons for  
Judgment  
of Mr.  
Justice  
McTague—  
*continued.*

depends on Section 6, Subsection 1 of The Succession Duty Act, 1934, 24 Geo. V, ch. 55 :—

“ (1) All property situate in Ontario and any income therefrom  
“ passing on the death of any person, whether the deceased was at the time  
“ of his death domiciled in Ontario or elsewhere, and every transmission  
“ within Ontario owing to the death of a person domiciled therein of  
“ personal property locally situate outside Ontario at the time of such  
“ death, shall be subject to duty at the rates hereinafter imposed.” In this  
case there is no question of a transmission within Ontario, and it is admitted  
that the deceased was domiciled in the State of New York. The question  
then is the very simple one—are the shares in question property situated  
in Ontario ? 10

Lake Shore Mines Limited was incorporated under the Ontario  
Companies Act by Letters Patent dated the 25th day of February, 1914.  
The Letters Patent contain the usual recital, “ Whereas the Ontario  
“ Companies Act provides that with the exceptions therein mentioned  
“ the Lieutenant-Governor may by Letters Patent create and constitute  
“ bodies corporate and politic for any of the purposes to which the  
“ authority of the Legislature of Ontario extends.”

By its By-law No. 2, paragraph 17, passed the 30th day of May, 1914, 20  
the company dealt with the matter of stock transfers in the following  
terms :—

“ 17. A stock transfer book shall be provided in such form as the  
“ Board of Directors may approve of and all transfers of stock in the capital  
“ of the company shall be made in such book and shall be signed by the  
“ transferor, or by his attorney duly appointed in writing. Stock  
“ certificates shall be in such form as the Board may approve of and shall  
“ be under the seal of the company and shall be signed by the president  
“ or vice-president and the secretary or such other officer in place of the  
“ secretary as the Board may by resolution authorize.” 30

On the 21st day of December, 1916, the board of directors passed a  
resolution appointing The Trusts and Guarantee Company, Limited, transfer  
agent and registrar of its capital stock at Toronto, and an agreement was  
entered into pursuant to the resolution. By resolution of the board of  
directors passed on the 21st day of May, 1925, the Royal Trust Company  
was appointed registrar of the company's stock at Toronto. The Trusts  
and Guarantee Company, Limited, continued to act as transfer agent.  
On the 18th day of May, 1927, the board of directors by resolution  
appointed the Manufacturers and Traders Trust Company of Buffalo,  
New York, an additional registrar and transfer agent at whose office,  
“ shareholders may have their stock registered and transferred within the  
“ United States of America.” 40

At the time of the testator's death there were two transfer agents,  
The Trusts and Guarantee Company, Limited, at Toronto, and the Manu-  
facturers and Traders Trust Company at Buffalo, New York. There were  
also two registrars, The Royal Trust Company at Toronto and the Manu-  
facturers and Traders Trust Company at Buffalo. A shareholder desiring

to transfer his shares could present them either in person or by his attorney at the office of The Trusts and Guarantee Company, Limited, at Toronto, or at the office of the Manufacturers and Traders Trust Company at Buffalo. Both these companies kept on hand share certificates in blank already executed by the proper officers of the company, and on being satisfied with the validity of the transfer would countersign the new certificate and have it countersigned by the respective registrars, if in Toronto by the Royal Trust Company and if in Buffalo by the Manufacturers and Traders Trust Company and deliver it to the Transferee. At the end of each business day

10 the transfer agents supplied each other with a record of the day's transactions, so that on this information being passed along to the registrars a complete register of shareholders was kept both at Toronto and Buffalo. An examination of the stock certificate itself describes the shares as being transferable only on the books of the company. In view of some of the provisions of the Ontario Companies Act, which I shall deal with later, it becomes important perhaps to decide whether the transfer books kept by The Trusts and Guarantee Company, Limited, at Toronto, and by the Manufacturers and Traders Trust Company at Buffalo and the register of

20 shareholders kept by The Royal Trust Company at Toronto and by the Manufacturers and Traders Trust Company at Buffalo, are legally the books of the company. I am unable to see any objection to the proposition. It is part of the transfer agents' and registrars' job to keep these books. They get paid for keeping them by the company, and they are surely the company's books in just the same way as a book of account kept by a salaried accountant is a book of the company.

The certificates for the shares in question here were the property of a person domiciled in the State of New York, and the evidence clearly establishes that at the time of Mr. Williams' death the certificates were physically located in Buffalo, New York.

30 The legal doctrine involved seems to me to be fairly clearly developed. The leading case on the subject is undoubtedly *Attorney-General v. Higgins* (1857), 2 H. & N. 338. The question was as to the situs of certain shares for Stamp Duty purposes in Scotland. The shares in question belonged to a deceased domiciled in York, England, and the certificates were located there. It was held that the situs of the shares was in Scotland. Martin B. put the matter very pithily: "It is clear . . . that the evidence of title

40 "to these shares is the register of shareholders and that being in Scotland "the property is located in Scotland." It is to be observed that the situs was determined by the locus of the register of shareholders and not by the locus of the company's head office, although in that case the places happened to be the same.

In *re Clark, McKecknie v. Clark* (1904), 1 Ch. 294, had to do with the construction of a will. The testator was domiciled in England. He bequeathed shares in certain South African mining companies. The question was whether the shares for the purposes of the will were to be regarded as English property or as South African property. The head offices of the companies were in South Africa where registers of shareholders were kept. The companies also had offices in London, where a duplicate

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register was kept, and where the shares could be transferred. It was held that the shares passed as English property.

In *Attorney-General of Nova Scotia v. De Lamar* (1921) 61 D.L.R. 251, the situs of shares in a Nova Scotia company was in question. By a statute of Nova Scotia the company was required to keep a register of shareholders in the Province and any register kept outside the Province was to be deemed part of the general register. The company had a registry office in New York where the shares in question were registered. The Nova Scotia Court of Appeal held that since the deceased was domiciled in New York, the share certificates were physically there and could be effectively transferred there without further act in Nova Scotia, there was no liability to succession duty in Nova Scotia. In other words the situs of the shares was in New York. 10

In *Brassard v. Smith* (1925), A.C. 371, certain Royal Bank of Canada shares belonged to a deceased person resident and domiciled in Nova Scotia. The bank had power by a Dominion Statute to maintain in any Province a registry office at which alone shares held by residents of that Province could be registered and validly transferred. The Judicial Committee held that the ownership of the shares could only be effectively dealt with in Nova Scotia, and therefore were not property in Quebec for succession duty purposes, although the head office of the bank was at Montreal, in the Province of Quebec. The case is most important as providing the working rule in this type of case. To quote from Lord Duncedin, at page 376:— 20

“ Their Lordships consider that the question was really settled by *Attorney-General v. Higgins*. Baron Martin in that case says in so many “ words: It is clear that the evidence of title to these shares is the register “ of shareholders and, that being in Scotland, this property is located in “ Scotland.”

“ It is quite true that in that case the head office as well as the register “ was in Scotland, but in their Lordships’ view it is impossible to hold that “ in that case the position of the head office was the dominant factor merely “ on the strength of a phrase used by the reporter of the Attorney-General’s “ argument, and a casual reference made to the case by Lord Esher in a “ subsequent case of *Attorney-General v. Lord Sudeley*. In the present case “ Duff J., dealing no doubt with the ‘ no local situation ’ argument, said as “ follows: ‘ And the Chief Baron’s judgment, I think, points to the “ essential element in determining situs in the case of intangible chattels “ for the purpose of probate jurisdiction as “ the circumstances that the “ “ subjects in question could be effectively dealt with within the juris- “ “ diction ’.’ This is, in their Lordships’ opinion, the true test. Where “ could the shares be effectively dealt with? ” 30 40

In *Baelz v. Public Trustee* (1926), 1 Ch. D. 863, a German national was beneficially entitled to certain shares in a trading corporation registered in England under the Companies Acts. All of its business was carried on in Holland and was conducted by directors domiciled and resident in Holland. The register of its members was kept at an office in England. It was held that for the purpose of determining whether there was a charge against the shares imposed by Treaty of Peace orders, the situs of the shares was to be regarded as in England.

Another case in our own Courts decided along similar lines is *Re McFarlane* (1933), O.R. 44. See also *In re Aschrott, Clifton v. Strauss* (1927), 1 Ch. 313.

In the case at bar, however, the Attorney-General, while not disputing the principle laid down in the cases above reviewed, contends that it is not applicable here because Lake Shore Mines Limited has neither power nor authority to set up a transfer office in another jurisdiction. If it has the capacity it seems to me the legal result follows not from any intentional act of the company but in the natural course. The contention is that in  
 10 the cases which I have reviewed the various companies involved had specific authority by statute to establish transfer agencies in foreign jurisdictions and an Ontario company has not. An analysis of the Ontario Companies Act reveals no specific authorization to establish such transfer agencies. Neither, in my opinion, does one find any prohibition either express or implied. The question is, what follows ?

It seems to me that *Bonanza Creek Gold Mining Company Limited v. The King* [1916], 1 A.C. 566, once and for all decided what is the nature of a company incorporated under the Ontario Companies Act and what is the proper method of approach in determining its powers and capacities.

20 Distinguishing between the type of company incorporated under the British Companies Act and companies created by special Act on the one hand, and companies which derive their existence from the Act of the Sovereign (and it was held that a company incorporated under the Ontario Companies Act belongs to this class) Lord Haldane referred to the grant of a charter in these words, at page 582 :

“ But, if validly granted, it appears to their Lordships that the charter  
 “ conferred on the company a status resembling that of a corporation at  
 “ common law, subject to the restrictions which are imposed on its pro-  
 “ ceedings. There is nothing in the language used which, for instance,  
 30 “ would preclude such a company from having an office or branch in England  
 “ or elsewhere outside Canada.” And again at p. 583 :

“ The whole matter may be put thus : The limitations of the legislative  
 “ powers of a province expressed in Section 92, and in particular the  
 “ limitation of the power of legislation to such as relates to the incorporation  
 “ of companies with provincial objects, confine the character of the actual  
 “ powers and rights which the provincial Government can bestow, either by  
 “ legislation or through the executive, to powers and rights exercisable within  
 “ the Province. But actual powers and rights are one thing and capacity to  
 “ accept extra-provincial powers and rights is quite another. In the case  
 40 “ of a company created by charter the doctrine of ultra vires has no real  
 “ application in the absence of statutory restriction added to what is written  
 “ in the charter. Such a company has the capacity of a natural person to  
 “ acquire powers and rights. If by the terms of the charter it is prohibited  
 “ from doing so, a violation of this prohibition is an act not beyond its  
 “ capacity, and is therefore not ultra vires, although such a violation may  
 “ well give ground for proceedings by way of scire facias for the forfeiture  
 “ of the charter.”

The doctrine enunciated by the Privy Council in the *Bonanza Creek*

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*continued.*

case was subsequently adopted by the Legislature in the Ontario Companies Act, in what is now Section 217, R.S.O. 1937, ch. 251, and which provides *inter alia* : “ Every corporation or company heretofore or hereafter created “ by or under any general or special Act of this Legislature shall, unless “ otherwise expressly declared in the Act or instrument creating it, have, “ and be deemed from its creation to have had, the general capacity which “ the common law ordinarily attaches to corporations created by charter.” See also *Honsberger v. Weyburn Town Site Co.* (1919), 59 S.C.R. 281 ; *Edwards v. Blackmore* (1918), 42 O.L.R. 105 ; *Ward v. Siemon* (1918), 43 O.L.R. 113, and *Basil v. Spratt* (1919), 44 O.L.R. 155.

10

Lake Shore Mines Limited has a transfer agency and a register of shareholders in Buffalo, New York, and it must be presumed that it is legally there under the laws of the State of New York. Whatever right or power the foreign jurisdiction has bestowed on it it has the capacity to accept and I can find nothing in the Ontario Companies Act or the Letters Patent expressly declaring otherwise.

The case mainly relied upon by Counsel for the Attorney-General in support of his position is *Erie Beach Company Limited v. Attorney-General for Ontario*, [1930] A.C. 161. In that case the company was one incorporated under the Ontario Companies Act. It conducted the business of an amusement park at Fort Erie, Ontario. Its head office was at Fort Erie very close to Buffalo, New York. Its principal shareholder was one Bardoll. All meetings of directors and shareholders were held at Buffalo and all its books were kept at Buffalo. When Mr. Bardoll died the Treasurer of Ontario claimed succession duty on the shares of the company owned by him even though it was admitted he was domiciled in Buffalo and the share certificates were physically situate in Buffalo. The important difference between this and the case at bar was that the Erie Beach Company had no transfer office in New York, and in addition its By-law No. 22 provided as follows :—

20

30

“ Shares of stock in the company shall not be transferable without “ the consent and approval of a quorum of the Board of Directors. The “ shares of the company shall only be transferable by the recording on “ the stock book of the company at the head office of the company, or at “ the office of the company’s transfer agents, if any, by the shareholder “ or his or her attorney, of the transfer thereof and the surrender of the “ certificate of such share, if any certificate shall have been issued in “ respect thereof, and upon the making of such transfer in the books of the “ said company the transferee shall be entitled to all the privileges and “ subject to all the liabilities of the original shareholder, provided that the “ directors, in case any certificate of share shall have been lost, may in “ their discretion accept and cause to be recorded the said transfer without “ the production of the original certificate.”

40

Section 56 of the Ontario Companies Act provides :—

“ (1) The shares of the company shall be deemed personal estate “ and shall be transferable on the books of the Company in such manner “ and subject to such conditions and restrictions as by this Act, the special

“ Act, the letters patent, supplementary letters patent or by-laws of the company may be prescribed.”

Reading the section and the by-law together it must be evident that the by-law itself placed a restriction which made it necessary for a valid transfer to take place at the head office in Ontario and that therefore the transfer could not validly take place anywhere else and *Attorney-General v. Higgins* applied. But the Judicial Committee apparently go further, unnecessarily I think with respect. The head note of the case, “ That as by the Ontario Companies Act the shares of the company could be effectively dealt with only in Ontario, shares of which the deceased person resident in the United States was the registered holder were property situate in Ontario and liable for succession duty,” is much too broad in its implication. If it was intended to suggest that an Ontario company could in no circumstance legally establish a transfer office and register in another jurisdiction, in my opinion such a conclusion could only be the result of an erroneous reading of the statute and by the adoption of a method of interpretation not in accord with the decision in the *Bonanza Creek* case. Of course if the head note is only intended to describe what was necessary to decide on the particular facts of the case, then a reference to the company’s by-law with respect to transfer would have made the matter much more clear, because the by-law in conjunction with the provisions of Section 56 would make it evident that, in the case of the particular company dealt with, the provisions of Section 56 did make transfer ineffectual at any place other than the company’s head office in Ontario. In Lord Merrivale’s reasons it is stated that the then Section 118 required the company to keep the company’s register of shareholders at its head office within Ontario. Sections 101 and 102 are the corresponding sections in the present Act. By Section 101 the corporation is required to cause its secretary to keep a book or books containing certain records and by Section 102 these are required to be kept at the head office. Whatever the purpose of the sections may be I cannot read into them a prohibition against an Ontario company keeping its register of shareholders at any other place so long as it keeps a record of the particulars required by Section 101 at its head office.

It is my view that the situs of the shares in question is where the register is at Buffalo since the shares could be effectively dealt with there without anything further to be done in Ontario. Once the transfer is made at the Manufacturers and Traders Trust Company in Buffalo the company cannot require anything further to be done in Ontario. Besides this the Courts in New York could as against the company compel the transfer of the shares in that jurisdiction. At least it has been so laid down : *Lockwood v. U.S. Steel Corporation* (1913) 209, N.Y.R. 375, and *Travis v. Knox Terpezzone* (1915), 215 N.Y.R. 259.

Accordingly I think the Suppliants should have a declaration that the Lake Shore Mines Limited shares are not subject to succession duty in Ontario, and a further declaration that they are entitled to refund of the sum of \$65,336.17, with interest at four per cent. from the 22nd day of July, 1935, and their costs.

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Court of  
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In the  
Supreme  
Court of  
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No. 12.

Notice of Appeal.

No. 12.  
Notice of  
Appeal,  
30th May,  
1940.

TAKE NOTICE that the Respondent appeals to the Court of Appeal from the judgment pronounced by the Honourable Mr. Justice McTague on the 15th day of May, 1940, and asks that the said judgment be reversed and that judgment be entered dismissing the Suppliants' Petition with costs, upon the following grounds :

That the said judgment is contrary to Law in that the learned Judge erred in holding that the Lake Shore Mines Limited shares were not property situate in Ontario, and in support thereof the Respondent submits that— 10

- (1) the resolution passed by the board of directors of Lake Shore Mines Limited on the 18th day of May, 1927, which purported to authorize the appointment of the Manufacturers and Traders Trust Company, Buffalo, New York, as a registrar and transfer agent was repugnant to paragraph 17 of by-law No. 2 of Lake Shore Mines Limited, and so ultra vires the directors of the said company inasmuch as the said paragraph provided for a stock transfer "book," and did not contemplate or provide for stock transfer "books," and further that the said resolution was ineffective because by law, and more especially Section 91 of the Ontario Companies Act, such appointment could only be made pursuant to the authority of a by-law of Lake Shore Mines Limited ; 20
- (2) the learned Judge erred in holding the transfer books and register of shareholders kept by the Manufacturers and Traders Trust Company at Buffalo, New York, to be legally the books of Lake Shore Mines Limited, as under Section 101 of the Ontario Companies Act such books shall be kept by the secretary of the Company or some other officer specially charged with that duty, and under Section 102 (1) of the said Act, such books shall be kept at the head office of the Company within Ontario ; 30
- (3) the learned Judge erred in holding that Lake Shore Mines Limited has the capacity under Section 217 of the Ontario Companies Act to have a transfer agency and register of shareholders in Buffalo, New York, where the shares could be effectively dealt with without anything further to be done in Ontario, because under Section 102 (1) of the Ontario Companies Act the books of the Company mentioned in Section 101 of the said Act, which include the stock transfer books and share register, shall be kept at the head office of the Company within Ontario, and because under Section 60 of the said Act no transfer of the said shares shall be valid until entry thereof has been duly made in the books of the Company ; 40

(4) the learned Judge erred in not holding *Erie Beach Company Limited v. the Attorney-General for Ontario, 1930, A.C. 161*, a binding authority in favour of the Respondent.

Dated the 30th day of May, 1940.

L. R. MAC TAVISH,

Parliament Buildings, Toronto,  
Solicitor for the Respondent.

To White, Ruel & Bristol, 51 King St. West, Toronto,  
Toronto Agents for Rose & Tyrrell, Fort Erie, Ont.,  
10 the Suppliants' Solicitors.

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Court of  
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**No. 13.**

**Appellant's Statement of Facts and Law.**

Alexander Duncan Williams died July 22, 1934, resident and domiciled in the City of Buffalo, N.Y., U.S.A., owning 10,200 shares of Lake Shore Mines Limited, a company incorporated by Letters Patent under the Companies Act of Ontario.

The certificates representing these shares were found at the date of death of Alexander Duncan Williams in the City of Buffalo in the State of New York.

20 Lake Shore Mines Limited by resolution purported to appoint the Manufacturers & Traders Trust Company in the said City of Buffalo as Registrar and Transfer Agent at whose office shareholders might have their shares registered and transferred.

Letters Probate of the Last Will and Testament of the deceased were granted to the executors by the Surrogate Court of the County of Erie in which the City of Buffalo is situate. Apart from the Lake Shore shares certain real estate and other property in Ontario was owned by the deceased at the time of his death, so that Ancillary Letters Probate were granted the executors by the Surrogate Court of the County of Welland for the adminis-  
30 tration of such property. Among the Ontario assets was \$10,000 credits in bank balances, which constituted the major proportion of the liquid assets available to pay debts. There was also some \$40,000 in value of stocks and securities admittedly situate in Ontario.

The Lake Shore shares were disclosed as property situate out of Ontario. The Treasurer of Ontario contended that these shares were property situate in Ontario passing on the death and were subject to duty. He therefore did not give releases for the Ontario property until the amount of duty which was then estimated to be payable was paid, namely, \$78,000. This was paid, subject to protest, on January 23, 1935. On July 22,  
40 1935, a further statement was prepared as a result of which \$1,347.68 was refunded to the executors.

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Appellant's  
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11th Octo-  
ber, 1940.

In the  
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Appeal.

The question for the determination of the Court is—" Are the said  
" shares property situate in Ontario within the meaning of The Succession  
" Duty Act, 1934, Chapter 55, Section 6 (1) ? "

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Appellant's  
Statement  
of Facts  
and Law,  
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ber, 1940—  
*continued.*

CASES AND STATUTES.

- The Succession Duty Act, 1934, Chapter 55, Section 6 (1).  
The Companies Act, R.S.O. 1937, Chapter 251, Sections 53, 56, 58, 60,  
91, 101 and 102.  
*Attorney-General v. Higgins* (1857) 2 Hurlstone & Norman 338.  
*Attorney-General of Nova Scotia v. De Lamar* (1922) 61 D.L.R. 251.  
*Brassard v. Smith* [1925] A.C. 371. 10  
*Baelz v. Public Trustee* (1926) 1 Ch. 863.  
*Erie Beach v. Attorney-General for Ontario*, 61 O.L.R. 507 (J).  
63 O.L.R. 469 (C.A.). [1930] A.C. 161.  
*Re Macfarlane* (1933) O.R. 44.  
*In re Ferguson* (1935) Ir.R. 21-67.  
*McKechnie v. Clark* (1904) 1 Ch. 294.  
*Re Ashcroft* (1927) 1 Ch. 313.  
*Toronto General Trust Corporation v. The King* (1938) 1 D.L.R. 40.  
*Rex v. Ivey* (1939) 1 D.L.R. 631.  
*James v. Beaver Consolidated Mines Limited* 60 O.L.R. 420 at 423. 20  
*MacKenzie v. Maple Mountain Mining Company* (1910) 20 O.L.R. 615  
at 618.  
*Manes Tailoring Company Limited v. Willson* (1907) 14 O.L.R. 89  
at 96.

D. L. McCARTHY,  
C. R. MAGONE,  
L. R. MacTAVISH,  
of Counsel for the Attorney-General  
for Ontario.

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Respon-  
dents'  
Statement  
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No. 14.

30

Respondents' Statement of Facts and Law.

FACTS.

1. The Suppliants are the Executors of the Will of the late Alexander Duncan Williams, an American citizen domiciled in the City of Buffalo N.Y., where he died on July 22, 1934. Their claim in the Petition of Right, and as allowed by the Trial Judge, was for a refund of Succession Duties, demanded by the Treasurer of Ontario and paid to him in July 1935 admittedly under duress and compulsion and subject to protest, in respect of 10,200 shares of Lake Shore Mines Limited, an Ontario

Company, owned by the deceased, together with interest thereon. There is no dispute as to the amount involved.

2. The Suppliants' contention was that these shares, the certificates for which were at all times physically located in Buffalo where the owner was domiciled, could be effectually transferred in Buffalo at the office of the M. and T. Trust Company, Transfer Agents of said Lake Shore Mines Limited, without anything being done in Ontario and, therefore, were not property situate in Ontario and not subject to Succession Duty there.

10 Ex. 1.  
Ev. p. 8.

3. Pursuant to Section 53 of the Ontario Companies Act, Lake Shore Mines Limited was authorized by its charter "to hold meetings of its shareholders, directors and Executive Committee outside of the Province of Ontario." No Order-in-Council was, however, passed under Subsection (3) of Section 102 relieving the Company from the necessity of keeping the books mentioned in Sections 101 and 107 at its head office in Ontario.

4. The only provisions of the By-laws of the said Company relating to transfers of shares are contained in Clauses 5 and 17 of General By-law No. 2, as follows :—

20

Ex. 3.  
Ev. p. 9.

" 5. The name and post office address of each shareholder and director shall be entered in a register and until notification in writing of a new address is received by the Secretary, the last address appearing in the register shall be deemed the post office address and the last known address of such shareholder or director."

30

" 17. A stock transfer book shall be provided in such form as the board of directors may approve of and all transfers of stock in the capital of the company shall be made in such book and shall be signed by the transferor or by his attorney duly appointed in writing, stock certificates shall be in such form as the board may approve of and shall be under the seal of the Company and shall be signed by the President or Vice-President and the Secretary or such other officer in place of the Secretary as the Board may by resolution authorize."

Ex. 4.  
Ev. p. 12.

5. On the 21st December 1916 the Directors of the said Company passed a resolution appointing The Trusts and Guarantee Company Limited Transfer Agent and Registrar of the capital stock of the Company in the City of Toronto.

40 Ex. 6.  
Ev. p. 14.

6. On May 21st 1925 the Directors of the said Company passed a resolution appointing the Royal Trust Company Registrar of its stock in the City of Toronto.

7. On the 18th of May 1927 the Directors of Lake Shore Mines Limited passed the following Resolution :—

" That the Company hereby designate and appoint Manufacturers & Traders Trust Company of Buffalo, New

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Smyth,  
Ev. p. 28,  
ll. 23-41.  
Wendel,  
Ev. p. 36,  
ll. 24-29

Smyth,  
Ev. p. 28,  
l. 3.  
Ex. 11.  
Ex. 12.

Smyth,  
Ev. p. 26,  
ll. 3-40  
Exs. 10 and  
11.

Wendel,  
Ev. p. 35,  
l. 10, to  
p. 36, l. 23.  
Ex. 12.

Anderson.  
Ev. p. 37,  
l. 34, to  
p. 38, l. 11 ;  
p. 38,  
ll. 30-35.  
Ex. 16.

Anderson.  
Ev. p. 38,  
ll. 12-21.

“ York, as an additional Registrar and Transfer Agent at  
“ which office shareholders may have their stock registered  
“ and transferred within the United States of America.”

8. The said M. and T. Trust Company has acted under  
the last Resolution ever since and effected transfers of the shares  
of Lake Shore Mines Limited without reference to the latter  
Company or its Toronto Transfer Agent or Registrar and without  
anything being done in Ontario, the system being that shares  
of the Company are interchangeably transferable in either Buffalo  
or Toronto irrespective of where the certificates issued.

10

Each of the Transfer Agents in Buffalo and Toronto  
respectively maintain a loose-leaf stock transfer book and send  
daily reports to the other of the transfers effected by them and  
recorded therein.

Certificates when presented for transfer bear an endorsement  
on the back appointing an attorney in blank to effect the transfer  
on behalf of the transferor who signs the endorsement. This blank  
is completed by filling in the name of a representative of the  
Transfer Agent in Buffalo or Toronto, as the case may be, who  
then signs the transfer as such Attorney, and a new certificate  
is issued to the transferee by the Transfer Agent effecting the  
transfer.

20

The duties of the Registrar in Toronto are to guard against  
an overissue of stock and are limited to verifying the signatures  
of the transferors and seeing that the new certificates issued by  
the Toronto Transfer Agent balance with old ones being cancelled.  
It keeps no record of the names of shareholders or other par-  
ticulars but only of the certificates cancelled and issued. The  
M. and T. Trust Company is both Transfer Agent and Registrar  
in Buffalo and the Royal Trust Company as Toronto Registrar  
performs no duties in respect of shares transferred or certificates  
issued in Buffalo.

30

#### LAW.

9. The essential element in determining the situs of shares of the  
company for Succession Duty purposes is—“ where could the shares be  
“ effectually dealt with.”

*A.G. v. Higgins* 2 H. & N. 339.

*Brassard v. Smith* [1925] A.C. 371.

10. Where two transfer offices are established by a company at either  
of which shares can be effectually transferred, the situs of the shares is  
determined by the locality in which the certificates are physically located  
and the owner is domiciled.

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*In re Clark, McKechnie v. Clark* (1904, 1 Ch. 294).

*A.G. of Nova Scotia v. De Lamar* (1922, 61 D.L.R. 251).

*Re McFarland* (1933 O.R. 44).

11. The case of *Erie Beach Company Limited v. A.G. for Ontario* (1929, 63 O.L.R., 469 ; [1930] A.C. 161) is distinguishable and is not an authority for the proposition that in no circumstances can an Ontario company provide for its shares being effectually transferred out of Ontario. In that case, by By-law 22 of the Erie Beach Company it was provided that its shares "shall be transferable *only* by the recording of the transfer on "the stock book of the company at their head office or the office of their transfer agent if any" (Per Lord Merrivale in 1930 A.C. at 166.) As the company's head office had to be in Ontario and it had never appointed a Transfer Agent at all, it was held that its shares could be effectually dealt with only at its head office and were, therefore, property situate in Ontario and subject to Succession Duty there (ibid).

In the Court of Appeal.

No. 14. Respondents' Statement of Facts and Law, 11th October, 1940—*continued.*

In the Reasons for Judgment of the Court of Appeal in the *Erie Beach case*, there are expressions of opinion to the effect that the Ontario Companies Act requires all transfers of shares in Ontario Companies to be effected in Ontario. It is submitted these opinions are *obiter dicta* and unnecessary to the decision of that case in view of the By-law above referred to, and are founded on a misinterpretation of the provisions of the Ontario Companies Act.

20 AS TO THE POWERS OF AN ONTARIO COMPANY TO ESTABLISH A TRANSFER AGENCY OUT OF ONTARIO.

12. Unless otherwise expressly declared in the Ontario Companies Act or its Charter, an Ontario Company has the status and capacity of a corporation at common law, i.e., that of a natural person, and the doctrine of *ultra vires* has no real application in the absence of statutory prohibition.

Section 217 and *Bonanza Creek* case [1916] 1 App. cases 566, per Lord Haldane at 582-4 ; Halsbury 2nd Ed. pp. 67, 71. See also :

- 30 *Edwards v. Blackmore* 42 O.L.R. 105.  
*Ward v. Siemon* 1843 O.L.R. 113.  
*Basil v. Spratt* 1919 44 O.L.R. 155 per Ferguson J.A. at 154 (5).  
*Honsberger v. Weyburn Townsite Co.* 1919 59 S.C.R. 281.

13. Even if by the terms of the Statute a prohibition might be implied against establishing an effective transfer agency out of Ontario, a violation of such prohibition is not *ultra vires* although it might give ground for proceedings by way of *scire facias* or otherwise for the forfeiture of the Charter.

*Bonanza* case supra p. 584.

See also Sec. 30 (1) of Ontario Companies Act.

- 40 14. But there is in the Ontario Companies Act no such prohibition nor any requirement that transfers can only be effected within Ontario at the head office or elsewhere.

(For convenience the relevant sections of the Companies Act R.S.O. 1937 chapter 251 will be referred to, there being no material change in the wording since 1914 although the sections have been re-arranged and re-numbered. The relevant sections are appended.)

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dents'  
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(a) The provisions of section 60 that no transfer is valid (except between the parties) until entered "in the books of the company," indicates there may be more than one book. This is also shown by similar words in section 61—"in any such books."

(b) Section 101 requires the company to keep—"a book or books"—wherein shall be kept recorded—"a copy of the Letters Patent and By-laws, "the names and addresses of all shareholders and the number of their "shares and the amounts paid thereon"—and—"the date and other "particulars of all transfers of shares."

(c) By Section 102 the said book or books, as well, as the books of 10 account and a book containing the minutes required by Section 107, must be kept at the head office in Ontario.

(d) By Section 105—"the books mentioned in Section 101 . . . "shall be kept open for the inspection of shareholders and creditors . . . "at the head office." In this connection it should be noted that by Section 74 shareholders are liable to the creditors to the extent of the amounts unpaid on their shares.

(e) It should be noted that the words "register," "share register" or "transfer book" do not appear anywhere in the Act and the assumption that Section 101 contemplates a one and only share register or transfer 20 book and requires this to be kept in Ontario is unjustified. It is submitted that the purpose of that section is to require a company to maintain at its head office a book "wherein shall be recorded" certain information, including particulars of transfers, so that this may be available for inspection in Ontario by shareholders and creditors pursuant to Section 105. By Section 106 this book is *prima facie* evidence in all proceedings against the company or any shareholders.

(f) There is nothing in Section 101 or any other part of the Act which says that this book or record of transfers to be maintained at the Head Office is to be the book and the only book where transfers must 30 be made and recorded. As a matter of fact the Head Office of Lake Shore Mines Limited is at Kirkland Lake, whereas all transfers of shares are effected at the Toronto office of The Trusts and Guarantee Company Limited or the Buffalo Office of the M. and T. Trust Company, its respective Transfer Agents. This is common and submittedly legitimate practice for any Ontario companies, provided they comply with the requirements of Section 101 and keep a record of all transfers at head office available for inspection.

(g) By Section 54, shares—"shall be transferable on the books of "the company in such manner and subject to such conditions and 40 "restrictions as by this Act, the Letters Patent or the By-laws of the "Company may be prescribed." No By-law may be passed restricting the right to transfer his shares but otherwise nothing in this section—"shall prevent the regulation of the mode of transfer."

(h) By Section 107 and section 102, a book or books must likewise be kept at the head office in Ontario containing Minutes of the Directors and Shareholders meetings, notwithstanding that the company may

by Letters Patent be authorized, as Lake Shore is, to hold such meetings out of Ontario. In other words, at such meetings, By-laws could be passed by the Directors and confirmed by the shareholders notwithstanding that the book containing the By-laws, or a copy of them must be kept in Ontario.

By analogy, it is submitted that while a record of all transfers must be kept in Ontario, for the purposes of inspection of creditors and shareholders, there is nothing to prevent the actual transfer being effectually made out of Ontario by entry by the shareholder or his attorney in a book of the company therein maintained for the purpose.

(i) In any event, it is submitted the provisions of Section 101 are directory only and that in view of Section 217 and the decision in the Bonanza case, failure to observe them does not mean that the transfer if recorded out of Ontario is *ultra vires* but merely the company might be liable to have its charter cancelled under Section 30 or in *scire facias* proceedings.

As to whether the resolution appointing the M. and T. Trust Company is valid and sufficient.

15. Section 91 authorizes the directors to pass by-laws "to regulate . . . the transfer of shares . . . and the conduct of all other particulars of the affairs of the company."

It is submitted that Clause 17 of By-law 2 of the Company above quoted is passed in exercise of these powers and is sufficient for the purpose. What is regulated thereby is the mode or method of transfer and no special by-law is required for the appointment of the servants or agents who are to effect transfers. That is a matter of management for the directors to deal with by resolution.

16. The form of the "stock transfer book" is by the by-law left to the discretion of the Board of Directors and by their resolution appointing the M. and T. Trust Company they have chosen to provide that this stock transfer book should be kept in two sections or duplicates, one in Buffalo and one in Toronto, upon each of which transfers can be recorded. It is submitted that this is a proper exercise of their discretion and that the resolution is sufficient.

17. The word "book" in this by-law should be read to impart the plural.

See Interpretation Act, R.S.O. 1937, Ch. 1, Section 29, Subsection (i) and (j).

For the reasons given by the Trial Judge, and as above stated, it is submitted that the appeal should be dismissed with costs.

Dated this 11th day of October, 1940.

PETER WHITE.

EVERETT BRISTOL.

Of Counsel for the Suppliants  
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RELEVANT SECTIONS OF THE ONTARIO COMPANIES  
ACT, R.S.O., 1937, CH. 251.

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*Corresponding Sections in R.S.O. 1914 Ch. 178, and R.S.O. 1927 Ch. 218.*

1914 sec. 3  
1927 sec. 2 (1)

Sec. 2 (1). The Lieutenant-Governor may, by Letters Patent grant a charter to any number of persons, not less than three, of the age of twenty-one years, who petition therefor, constituting such persons and any others who have become subscribers to the memorandum of agreement hereinafter mentioned and persons who thereafter become shareholders or members in the corporation thereby created a corporation for any of the purposes to which the authority of this Legislature extends, except those of railway and incline railway and street railway companies, and corporations within the meaning of The Loan and Trust Corporations Act. 10

1914 sec. 4  
1927 sec. 3

Sec. 3. The Provincial Secretary may, under the seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor but not those conferred on the Lieutenant-Governor in Council.

1914 sec. 5  
1927 sec. 4

Sec. 4 (1). The applicants for the incorporation of a company may petition the Lieutenant-Governor for the grant of a charter.

(2). The Petition shall shew :—

. . . (c) the place within Ontario where the head office of a company is to be situate ; 20

1914 sec. 23  
1927 sec. 23

Sec. 24 (1). A company shall possess as incidental and ancillary to the powers set out in the letters patent or supplementary letters patent power to,—

. . . (p) do all or any of the above things, and all things authorized by the letters patent or supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others ;

(q) do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the letters patent and supplementary letters patent; 30

Ss (r) added by 1931 Ch. 46 sec. 5 (3)

(r) procure the company to be registered and recognized in any foreign country or province of the Dominion of Canada, and to designate persons therein according to the laws of such foreign country or province of the Dominion of Canada to represent the company and to accept service for and on behalf of the Company of any process or suit ;

1914 sec. 2  
1927 sec. 30

Sec. 30 (1). The letters patent by which a corporation is incorporated and any supplementary letters patent amending or varying the same may, at any time, be declared to be forfeited 40

Corresponding  
Sections in  
R.S.O. 1914  
Ch. 178, and  
R.S.O. 1927  
Ch. 218.

1914 sec. 52  
1927 sec. 54

and may be revoked and made void by the Lieutenant-Governor in Council, on sufficient cause being shown, upon such conditions and subject to such provisions as he may deem proper.

Sec. 53. Meetings of the shareholders, directors and executive committees shall be held at the place where the head office of the company is situate except when otherwise provided by the special Act, letters patent, supplementary letters patent or the by-laws of the company, but shall not be held out of Ontario unless when so authorized by the special Act, letters patent or supplementary letters patent.

10

1914 sec. 54  
1927 sec. 56

Sec. 54 (1). Every shareholder shall, without payment, be entitled to a certificate signed by the proper officer in accordance with the company's by-laws in that behalf stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint shareholders shall be sufficient delivery to all.

(3.) The certificate shall be *prima facie* evidence of the title of the shareholder to the shares mentioned in it.

20

1914 sec. 56  
1927 sec. 58

Sec. 56 (1.) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as by this Act, the special Act, the letters patent, supplementary letters patent or by-laws of the company may be prescribed.

(2.) Subject to Section 58, no by-law shall be passed which in any way restricts the right of a holder of paid-up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof.

30

1914 sec. 60  
1927 sec. 62

Sec. 60. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, shall, until entry thereof has been duly made, be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the company and its creditors until entry thereof has been duly made in the books of the Company.

1914 sec. 61  
1927 sec. 63

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Sec. 61 (1.) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

(2.) Such owner may lodge a caveat against the entry of the transfer and thereupon such transfer shall not be made for a period of forty-eight hours.

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*Corresponding  
Sections in  
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(3.) If, within one week from the giving of such notice or the expiration of the period of forty-eight hours, whichever shall expire last, no order of a competent court enjoining the entry of such transfer shall have been served upon the company the transfer may be entered.

(4.) Where a transfer is entered after the proceedings mentioned in this section the company shall, in respect of the shares so transferred, be free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim which the transferor may have against 10  
the transferee.

1914 sec. 63  
1927 sec. 65

Sec. 65. A company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions thereof may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares therein specified, and may provide by coupons or otherwise, for the payment of the future dividends on the share or shares included in the warrant hereafter termed a share warrant.

1914 sec. 64  
1927 sec. 66

Sec. 66. A share warrant shall entitle the bearer thereof 20  
to the shares therein specified, and the shares may be transferred by delivery of the warrant.

1914 sec. 74  
1927 sec. 76

Sec. 74 (1.) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part, and the amount due on such execution, but not beyond the amount so unpaid on his shares, shall be the amount recoverable against such 30  
shareholder.

1914 sec. 84  
1927 sec. 86

Sec. 84. The affairs of the Company shall be managed by a board of not less than three directors who shall be elected by the shareholders in general meeting.

1914 sec. 91  
1927 sec. 93

Sec. 91 (1). The directors may pass by-laws, not contrary to law or to the letters patent or supplementary letters patent or to this Act, to regulate :—

(a) the allotment of shares, the making of calls thereon, the payment thereof, the issue and registration of certificates of shares, the forfeiture of shares for non- 40  
payment, the disposal of forfeited shares and of the proceeds thereof, the transfer of shares ;

(e) the conduct in all other particulars of the affairs of the Company.

1914 sec. 118  
1927 sec. 121

Sec. 101. The Corporation shall cause the secretary, or some other officer specially charged with that duty, to keep a book or books wherein shall be kept recorded :—

*Corresponding  
Sections in  
R.S.O. 1914  
Ch. 178, and  
R.S.O. 1927  
Ch. 218*

10

- (a) a copy of the Letters Patent and of any supplementary Letters Patent issued to the corporation and, if incorporated by special Act, a copy of such Act, and the by-laws of the corporation duly authenticated ;
- (b) the names, alphabetically arranged, of all persons who are and who have been shareholders or members of the corporation ;
- (c) the post office address and calling of every such person while such shareholder or member ;
- (d) the names, post office addresses and callings of all persons who are or have been directors of the corporation, with the date at which each person became or ceased to be such a director ;

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and in the case of a corporation having share capital :—

- (e) the number of shares held by each shareholder ;
- (f) the amounts paid in, and remaining unpaid respectively on the shares of each shareholder ;
- (g) the date and other particulars of all transfers of shares in their order.

20 1914 sec. 119  
(107 was 124)  
1927 sec. 122  
(107 was 127)

Sec. 102. (1) The books mentioned in Sections 101 and 107 shall be kept at the head office of the corporation within Ontario, whether the company is permitted to hold its meetings out of Ontario or not.

30

(3) Upon necessity therefor being shown and adequate assurance given that such books may be inspected within Ontario by any person entitled thereto after application for such inspection to the Provincial Secretary, the Lieutenant-Governor in Council may relieve any corporation permitted to hold its meetings out of Ontario from the provisions of this section upon such terms as he may see fit.

1914 sec. 121  
1927 sec. 124

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Sec. 104 (1) If the name of any person is, without sufficient cause, entered in or omitted from any such book, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the Supreme Court, for an order that the book or books be rectified, and the Court may either refuse such application or may make an order for the rectification of the book, and may direct the corporation to pay any damages the party aggrieved may have sustained.

(2) The court may, in any proceedings under this section, decide any question relating to the title of any person who is a party to such proceedings to have his name entered in or omitted from such books, whether such question arises



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Ch. 218.*

1914 sec 122  
(101 was 118)  
1927 sec. 125  
(101 was 121)

1914 sec. 123  
1927 sec. 126

1914 sec. 124  
1927 sec. 127

1914 sec. 208  
1927 sec. 236

First  
Enacted  
1916,  
Ch. 35, sec. 6  
1927 sec. 238

between two or more shareholders or alleged shareholder or member and the corporation, and the Court may in any such proceeding decide any question which it may be necessary or expedient to decide for the rectification of the books.

(5) This section shall not deprive any court of any jurisdiction it may otherwise have.

Sec. 105 (1) The books mentioned in Section 101 shall, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, members and creditors of the corporation and their personal representatives 10 or agents, at the head office or chief place of carrying on its undertaking, and every such shareholder, member, creditor, agent or representative, may make extracts therefrom.

Sec. 106. Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any action or proceeding against the corporation or against any shareholder or member.

Sec. 107. The directors shall cause proper books of account to be kept containing full and true statements of :—

- (a) the financial transactions of the corporation ;
- (b) the assets of the corporation ;
- (c) the sums of money received and expended by the 20 corporation, and the matters in respect of which such receipts or expenditure took place ;
- (d) the credits and liabilities of the corporation ; and a book or books containing minutes of all the proceedings and votes of the corporation, or of the board of directors, respectively, verified by the signature of the president or other presiding officer of the corporation.

Sec. 215. This Act, except in so far as it is otherwise 30 expressly declared shall apply to :—

- (e) every corporation incorporated under The Ontario Companies Act (1907), The Ontario Companies Act (1912), The Ontario Companies Act (1914), The Companies Act (1927), or this Act.

Sec. 217. Every corporation or company heretofore or hereafter created :—

- (a) by or under any special or general Act of the Parliament of the late Province of Upper Canada ;
- (b) by or under any special or general Act of the Parliament 40 of the late Province of Canada, which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of this Legislature extends ;

- (c) by or under any of the Acts repealed by The Ontario Companies Act (1907), or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable ;
- (d) by or under a special Act to which any of the provisions of The Ontario (or any Act Joint Stock Companies' General Clauses Act) for which that was substituted were applicable ;
- (e) by or under any general or special Act of this Legislature ;

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10

shall unless otherwise expressly declared in the Act or instrument creating it, have, and be deemed from its creation to have had, the general capacity which the common law ordinarily attaches to corporations created by charter.

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No. 15.

**Formal Judgment.**

No. 15.  
Formal Judgment, 16th November, 1940.

IN THE COURT OF APPEAL FOR ONTARIO.

Saturday, the 16th day of November, 1940.

20

The Honourable The CHIEF JUSTICE OF ONTARIO.  
The Honourable Mr. Justice MIDDLETON.  
The Honourable Mr. Justice MASTEN.  
The Honourable Mr. Justice FISHER.  
The Honourable Mr. Justice HENDERSON.

Between

EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS,  
Executors of the Will of ALEXANDER DUNCAN WILLIAMS,  
deceased ... .. *Suppliants,*

and

30

HIS MAJESTY THE KING, as represented by the ATTORNEY  
GENERAL FOR ONTARIO ... .. *Respondent.*

(Seal)

THE APPEAL of the Respondent from the Judgment pronounced by the Honourable Mr. Justice McTague in this cause on the 15th day of May, 1940, having come on to be heard by this Court on the 15th and 16th days of October, 1940, in the presence of Counsel as well for the Suppliants

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as for the Respondent, upon hearing read the said Judgment, the evidence adduced at the trial and the exhibits therein referred to and upon hearing what was alleged by Counsel aforesaid, this Court was pleased to direct that the said appeal should stand over for judgment and the same coming on this day for Judgment:—

1. This Court Doth Order that the said appeal be and the same is hereby dismissed.

2. And This Court Doth Further Adjudge and Declare that the Suppliants are entitled to be paid their costs of and in connection with the said appeal.

10

“ CHAS. W. SMYTH,”  
Registrar S.C.O.

No. 16.  
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(A) Robert-  
son, C.J.O.

### No. 16.

#### Reasons for Judgment.

(A) ROBERTSON, C.J.O. : This is an appeal from the judgment of McTague J. before whom the action was tried, and who gave judgment for plaintiffs.

I agree with the judgment of Masten J.A. that the appeal should be dismissed upon the ground first discussed in his reasons for judgment.

On the broad question whether an Ontario Company, such as Lake Shore Mines, Limited, can establish an agency office in the State of New York—the head office of the Company being fixed at some place in Ontario—where transfers of its shares may be made in its books in conformity with Sections 56 and 60 of the Ontario Companies Act, the contention of appellant, on the argument of the appeal, that this cannot be done was rested, not on the ground that such an office can be established only within Ontario, but on the ground that the Company cannot provide for the making of such transfers at any place except the head office of the Company, and in the book required by Section 101 to be kept there.

20

In this connection I think there is some significance in certain changes made in the provisions of the Ontario Companies Act in 1897 by 60 Vic., c. 28, when the sections governing this matter assumed substantially their present form. The Act that had been in force—R.S.O. 1887, c. 157 provided in Section 50 for the books to be kept at the head office of the Company, much as is now done by Section 101 of the present Act. Clause (f) of that section was as follows : “ all transfers of stock, in their order, as presented “ to the Company for entry, with the date and other particulars of each “ transfer and the date of the entry thereof.”

30

In the Act of 1897 there was substituted for the foregoing, what is now clause (g) of Sec. 101, with this one difference, that the word “ stock ” was used where “ shares ” now appears.

40

Then, in the Act as it was in the revised statutes of 1887, immediately

following the provisions of Sec. 50 as to the books to be kept at the head office, there followed, in Sec. 51, this provision: "The directors may "refuse to allow the entry into any such book of any transfer of stock "whereon any call has been made which has not been paid in." The words "any such book" would seem to refer directly to the book required to be kept at the head office by Sec. 50 (f).

10 From the Act of 1897 this Sec. 51 was omitted, but another provision was made in another part of the Act as to the entry of transfers of shares not fully paid. This provision was made in Sec. 27, which was in its effect similar to Sec. 57 of the present Act, and followed a provision in Sec. 26 very similar to s.s. 1 of the present Sec. 56. Sec. 27 of the Act of 1897 contained the words "in any such book," as had the former Sec. 51, but the reference was not to any book expressly required to be kept at the head office, but simply to "the books of the company."

I think these changes made in the Ontario Companies Act in 1897 indicate an intention to remove any restriction that confined the making of transfers of shares to the head office of the company.

20 In any event a very general practice has become established on the part of Ontario Companies having any considerable number of shares in the hands of the public, to provide for the transfer of shares at the office of a trust company or some such place where a convenient service for that purpose has been set up.

30 With respect to the case of *Erie Beach Company Limited v. Attorney General of Ontario* [1930] A.C. 161, it seems to me that the broad distinction between that case and the present is that in the *Erie Beach case* the company had not provided for the transfer of its shares at any place but the head office of the company, while in the present case the company had expressly provided by resolution of the board of directors for the transfer of its shares at the office of Manufacturers and Traders Trust Company in Buffalo.

(B) MIDDLETON, J.A.: I agree that this appeal must be dismissed, but I prefer to rest my judgment upon the first ground discussed by Mr. Justice Masten. On the second ground I am far from saying that I would not ultimately accept his reasoning, but at the present time the matter appears to me to be one of some difficulty.

40 In the present case the same conclusion is arrived at on each of the two grounds; but if the facts had been slightly different then these two grounds would conflict. If these shares had been found to be *bona notabilia* elsewhere than at the domicile, duty would be payable upon them where found, and a conflict would then arise. It may be that the express statement found in Section 50, s.s. 1, that the shares are to be "personal estate" will be found to be sufficient to prevent this result. I would desire to hear this matter fully argued, and therefore, leave it open and express no opinion upon it. It is not necessary for the decision of this case that I should do so.

(C) MASTEN J.A.: The present proceeding is a petition of right to recover from the Crown in Ontario the sum of \$65,336.17 paid under

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(A) Robertson, C.J.O.  
—continued.

(B) Middleton, J.A.

(C) Masten J.A.

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No. 16.  
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(C) Masten,  
J.A.—  
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protest as succession duties in respect of certain shares in Lake Shore Mines Limited.

The appeal to this Court is from the judgment of McTague J. dated the 15th May, 1940, whereby it was adjudged that succession duty was not payable to the Province of Ontario in respect of the shares in question, and that the duty theretofore paid under protest by the Suppliants ought to be refunded to them.

The Lake Shore Mines is a company incorporated under the Ontario Companies Act and having its head office at Kirkland Lake in Ontario with subsidiary agencies for recording transfers of shares at Toronto, Ontario, and at Buffalo, in the State of New York, and its shares are listed and dealt with on various stock exchanges outside Ontario. 10

According to the evidence the shares were interchangeably transferable at Toronto and at Buffalo.

The Petitioners are Eva May Williams and Reginald Victor Williams, executors of the will of Alexander Duncan Williams, who died domiciled at Buffalo, New York, and who at his death was the owner of 10,200 shares in the Lake Shore Mines Limited, all evidenced by share certificates duly issued by the company under its corporate seal, which share certificates the Petitioners claim to have been transferable in the transfer agency of the company in Buffalo, namely, at the office of the Manufacturers and Traders Trust Company. The said share certificates were at the time of the death of Alexander Duncan Williams in his actual possession in the City of Buffalo. 20

On May 2, 1940, the Suppliants having obtained in New York State Letters Probate of the will of Alexander Duncan Williams, transferred the shares in question on the records kept in Buffalo by the agents of the company, from the name of Alexander Duncan Williams to their own names.

I am of opinion that on two grounds this appeal should be dismissed. 30

First, because in my opinion the shares in question being the property of Alexander Duncan Williams domiciled in Buffalo, could be and were effectively transferred at the transfer office of the Lake Shore Mines Limited in Buffalo, and were therefore "locally situated" out of the Province of Ontario; consequently as the *situs* of the shares was in Buffalo and their transmission and transfer was effectively carried out there succession duties are not recoverable by Ontario.

Secondly (though with some hesitation), I am of opinion that the share certificates held by Alexander Duncan Williams at his death were "specialities" locally situate in Buffalo, and, consequently, the shares evidenced by them were not liable to succession duty in Ontario. 40

With respect to the ground first above mentioned, I agree with the conclusion of my brother McTague, and concur in his reasons, but desire to add certain further observations.

In the Judgment below it was clearly demonstrated that Lake Shore Mines Limited (being incorporated under an Ontario Charter) is a common law corporation possessing the capacity to acquire in the State of New York-

such powers as may be bestowed upon it in that jurisdiction. I understand that this constitutional capacity of the Lake Shore Company is not challenged by Counsel for the Appellants, nor do they controvert the evidence of the witness Moore that the "Stock Corporation Law of New York requires foreign stock corporations doing business in New York to maintain by itself or agent a stock book showing the names of the shareholders, their address and the number of shares held by it. That may be kept in the office of the transfer agent or the office of the Corporation if it has an office other than that of its transfer agent."

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10 Such a law necessarily implies a general power bestowed on foreign companies to establish a transfer office in New York State.

If the general power so exercisable by the Lake Shore Company is not prohibited or limited by the Ontario Companies Act, or by the charter or by-laws of the company, then the directors had, in my opinion, power by resolution to establish legally in Buffalo a transfer agency and the shares in question were effectively transferable there.

20 If the general power so conferred was lawfully exercised when the transfer agency in Buffalo was established, then we are bound by the decision of this Court in *Re McFarlane* (1933), O.R. 44, to hold that the shares in question were "locally" situated in Buffalo and to dismiss this appeal.

In that case the Province of Ontario claimed succession duty in respect of shares in the International Nickel Company, a company incorporated under the Dominion Companies Act. The deceased was domiciled in Montreal and died there. Before his death the company had established a transfer agency in Montreal, though the head office of the company was at Copper Cliff in Ontario. The Surrogate Judge, before whom the case came in the first instance, determined that McFarlane's estate was not liable for succession duty.

30 At page 46 of the report the Surrogate Judge says:—

"Mr. Garvey stresses the provision of sec. 77 of the Dominion Companies Act, R.S.C. 1927, ch. 27, which provides that no transfer of shares, 'shall be valid for any purpose whatever until entry of such transfer is duly made in the register of transfers.'

"What is meant by the 'register of transfers'? No such register is kept at Copper Cliff. If not, then if these shares were transferred at Montreal there is nothing required to be done within Ontario to vest the shares in the transferor.

40 "It is, I think beyond doubt that the shares in question is the kind of stock dealt with in Sec. 77 (2) and a transfer thereof at any transfer agency of the Company 'constitutes a valid transfer,' except for the purpose of voting."

The Crown appealed to the Court of Appeal, and by a unanimous judgment the appeal was dismissed.

Judgment was delivered orally by Mulock, C.J.O., as follows:—

"The only power that the Province would have to tax the shares in question would be if it were entitled to intercept their transmission

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“ within the Province but it has not such right in the present case. The  
“ Province cannot object to a Dominion company creating transfer agencies  
“ outside of Ontario, and the mere presence of the head office in Ontario  
“ is not enough to give the Province the power to tax these shares.  
“ Transfer of shares in the company can be completely effected at any one  
“ of the four places where the company has created transfer agencies.  
“ The Companies Amendment Act (Dominion), 1932, 22-23 Geo. V.,  
“ ch. 27, sec. 4, which is retroactive in effect, is conclusive in favour of  
“ the power of the company to create transfer agencies outside of Ontario.  
“ The appeal is dismissed with costs.”

10

This case is referred to with approval in an illuminating judgment of the Court of King's Bench of Quebec, viz., *Re Thorburn v. Ivey et al v. The King* (1939) 1 D.L.R. 631. The head-note in that case reads as follows :—

“ Shares in Dominion and Quebec Companies whose head offices were  
“ in Montreal but which maintained transfer registries in the Province of  
“ Ontario where they were listed on the Stock Exchange and where their  
“ certificates in strict form and transferable by endorsement only were found  
“ upon death of their owner, held ‘ situate ’ in Ontario and hence not  
“ subject to succession duty under s. 4 of the Succession Duties’ Act,  
“ R.S.Q. 1925, c. 29.”

20

The facts are very similar to those of the present case. At page 642 Mr. Justice Walsh refers to Section 4 of the Companies Act, 1932 (Canada), cap. 27, and points out that difficulty had arisen respecting the registration of such shares because a custom had been introduced to establish branch offices elsewhere than at the head office of the company, and he continues:—

“ It was to settle the matter that this legislation was passed. The law  
“ was not amended. It was only declared that the establishment of branch  
“ offices had always been lawful . . . .

“ As a matter of fact, no change was made. There was only  
“ recognition of a state of affairs and of the law governing these.”

30

The same view was expressed by Rivard J., and at page 648 St. Jaques, J. says :—

“ Parliament was facing a state of affairs created by the companies  
“ themselves under the authority of an Act which did not prohibit  
“ establishment of transfer offices elsewhere than at head offices and  
“ by this statute it simply stated what the real meaning of the Act was.  
“ It did not change or modify it in any way. There can be no question  
“ here of retroactivity, for this statute enacts nothing new to which it  
“ gives a retroactive effect ; the Legislature looked backwards and defined  
“ once and for all what it intended to say by the text of s.s. 77, 118 & 119  
“ of the Act.”

40

Counsel for the appellant seek to distinguish the cases just quoted on the ground that the Ontario Companies Act coupled with the charter and by-laws of the Lake Shore Company preclude the company from establishing transfer agencies out of Ontario.

I agree with the observations of my brother McTague when dealing

with that question, but out of respect for the arguments of appellant's counsel I proceed to consider it somewhat further.

The sections of the Ontario Act relied on by the appellants are sections 101, 107 and 102, which read as follows :—

“ 101. The corporation shall cause the secretary, or some other officer specially charged with that duty, to keep a book or books wherein shall be kept recorded,—

“ (a) a copy of the letters patent and of any supplementary letters patent issued to the corporation and, if incorporated by special Act,  
10 “ a copy of such Act, and the by-laws of the corporation duly authenticated ;

“ (b) the names, alphabetically arranged, of all persons who are and who have been shareholders or members of the corporation ;

“ (c) the post office address and calling of every such person while such shareholder or member ;

“ (d) the names, post office address and callings of all persons who are or have been directors of the corporation, with the date at which each person became or ceased to be such a director ;

and in the case of a corporation having share capital ;—

“ (e) the number of shares held by each shareholder ;

20 “ (f) the amounts paid in, and remaining unpaid respectively, on the shares of each shareholder ;

“ (g) the date and other particulars of all transfers of shares in their order.”

“ 107. The directors shall cause proper books of account to be kept containing full and true statements of,—

“ (a) the financial transactions of the corporation ;

“ (b) the assets of the corporation ;

30 “ (c) the sums of money received and expended by the corporation, and the matters in respect of which such receipt or expenditure took place ;

“ (d) the credits and liabilities of the corporation ;

“ and a book or books containing minutes of all the proceedings and votes of the corporation, or of the board of directors, respectively, verified by the signature of the president or other presiding officer of the corporation.”

“ 102. (1) The books mentioned in sections 101 and 107 shall be kept at the head office of the corporation within Ontario, whether the company is permitted to . . . hold its meetings out of Ontario or not.”

40 The by-law relied on by the appellant is paragraph 17 of by-law two, as follows :—

“ 17. A stock transfer book shall be provided in such form as the board of directors may approve of and all transfers of stock in the capital of the company shall be made in such book and shall be signed by the transferor or by his attorney duly appointed in writing, stock certificates shall be in such form as the board may approve of and

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“ shall be under the seal of the company and shall be signed by the  
“ President or Vice-President and the Secretary or such other officer  
“ in place of the Secretary as the board may by resolution authorize.”

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The resolution of the Board of Directors establishing a transfer agency in Buffalo was passed on the 18th day of May, 1927, and is as follows :—

“ RESOLUTION PASSED AT A MEETING OF DIRECTORS OF LAKE SHORE  
“ MINES, LIMITED, HELD AT KIRKLAND LAKE, ONTARIO, ON MAY 18,  
“ 1927.

“ Moved by Mr. Martin, seconded by Mr. Wright, that the Company 10  
“ hereby designate and appoint Manufacturers and Traders Trust Company  
“ of Buffalo, New York, as an additional Registrar and Transfer Agent  
“ at which office shareholders may have their stock registered and  
“ transferred within the United States of America.

“ Carried.”

The Companies Act of Ontario does not appear to contain any express provision enabling the company to establish a transfer agency outside the boundaries of Ontario, nor on the other hand does it contain any express provision prohibiting such action. As already pointed out, authority to establish transfer agencies outside Ontario arises out of the wide general powers exercisable by the Lake Shore Mines, Limited, as a common law corporation, and its capacity to receive authority from New York State to exercise in that State its power to appoint a transfer agent. 20

I venture to say that if such general power is to be curtailed or in any particular prohibited, such limitation or prohibition must clearly appear. Here in the absence of any express provision such prohibition must in order to be effective appear as a clear and certain inference from the words of the statute, the charter or the by-laws. All I can say is that after careful examination of these documents I can find no basis for drawing 30  
an inference or prohibition or limitation.

The requirements of Sections 101, 107 and 102 that certain records shall be kept in Ontario, or kept at the head office in Ontario is a positive obligation, but it does not prohibit or limit the power of the Company to establish and maintain a supernumerary or subsidiary transfer agency at Buffalo under its general powers for the purpose of encouraging the investment of foreign capital and for the convenience of shareholders in that country, such an agency does not infringe on or replace the Ontario office and records. It is, as I have indicated, additional and supplementary, and is not, in my opinion, prohibited by implication. 40

By-law 17 appears to me to be authorized by Section 91 of the Act. It provides in general terms for the transfer of shares, leaving the details of how and where to be dealt with by the directors by resolution. It contains nothing which negatives their power to open for the convenience of shareholders a subsidiary transfer agency in Buffalo.

In this connection I refer to Section 56, Subsection 1, which provides as follows :—

“ The shares of the company shall be deemed Personal estate and shall  
 “ be transferable on the books of the company in such manner and subject  
 “ to such conditions and restrictions as by this Act, the special Act, the  
 “ Letters Patent, Supplementary Letters Patent or By-laws of the Company  
 “ may be prescribed.”

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With respect to the case of *Erie Beach Company Limited v. Attorney-General for Ontario* [1930] 1 A.C. 161, I agree with the conclusions of  
 10 McTague, J. and with his reasons. The observations of Lord Merrivale to the effect that shares of an Ontario company can be effectively transferred only at the head office of the company appears to be *obiter* and not warranted upon the true construction of the Act.

There are no words in the Act establishing a “ register of shares ” where and where *only* a transfer of shares can be recorded. Indeed the term “ register of shares ” nowhere appears.

As pointed out by Counsel for the Respondents, the words “ register,” “ share register ” or “ transfer book ” are not to be found in the Ontario Act, which is entirely different in the provisions of Sections 101, 102 and 56  
 20 from anything to be found in the Imperial Companies Act.

A careful comparison with the Ontario Act of the provisions of the Imperial Companies Act and the requirements thereby prescribed, convinces me that their requirements and practice can form no guide in the determination of the present case.

For these reasons I am of opinion that a transfer agency was legally and effectively established in Buffalo, and that the shares in question were effectively transmissible and transferable in Buffalo.

I proceed to consider the suggestion that the share certificates in question are “ specialities ” and make the shares covered by them *bona*  
 30 *notabilia* at the place where the certificates are found, and in the present case fix the local situation or *situs* of the shares in Buffalo.

Shares possess various attributes according to the aspect in which they are viewed.

In *Borlands Trustee v. Steel Brothers & Co.* (1901) Ch. D. 279, at page 288, Farwell, J., says :—

“ A share is the interest of a shareholder in the company measured  
 “ by a sum of money, for the purpose of liability in the first place, and of  
 “ interest in the second, but also consisting of a series of mutual covenants  
 “ entered into by all the shareholders *inter se* in accordance with s. 16  
 40 “ of the Companies Act, 1862. The contract contained in the Articles of  
 “ Association is one of the original incidents of the share. A share is  
 “ not a sum of money settled in the way suggested, but is an interest  
 “ measured by a sum of money and made up of various rights contained in  
 “ the contract, including the right to a sum of money of a more or less

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“ amount.” In 5 Halsbury, 2nd Ed., at par. 438, the attributes of a share are described as follows :—

“ A share is a right to a specified amount of the share capital of a company carrying with it certain rights and liabilities while the company is a going concern and in its winding-up. The shares or other interest of any member in a company are personal estate transferable in the manner provided by its articles and are not of the nature of real estate.”

And at par. 256, it is said :

“ While the articles regulate the rights of the members *inter se* they do not it would seem constitute a contract between the members *inter se* 10  
“ but only a contract between the company and the members.”

See also the definition of a share by Lord Wrenbury in *Bradbury v. English Sewing Cotton Co.* [1923] A.C., at p. 767.

In 14 Corpus Juris the definition is as follows :—

Certificates of stock, together with the charter or articles of incorporation and the statute under which the corporation was organized, are evidence of a contract between the corporation and the persons named therein or subsequent holders thereof by proper assignment and transfer, and between the various stockholders, by which each holder is the owner of the shares of stock represented by his certificate, and entitled as such to 20  
participate in the management of the corporation, in surplus profits, and upon dissolution, in all of “ its assets remaining after the payment of “ its debts.”

No doubt in one aspect the share certificate given to the shareholder under the seal of the company is a mere assurance of title by which the company is estopped from denying the shareholders interest ; but in considering whether it is a speciality, the attribute to be considered is that the share certificates in question are written acknowledgments under seal witnessing mutual obligations between the shareholder and the company.

As has frequently been pointed out the share certificate is not 30  
primarily a contract, though the ownership of the share arises out of a contract as more clearly appears from a consideration of the transaction when an application for shares is received by the company, and shares are allotted by the company for consideration given by the applicant. The share certificate to which the applicant is by law then entitled evidences an obligation in law under the corporate seal of the company to pay to the shareholder his proportionate share in the net assets upon a winding-up. I think that for the purpose of ascertaining the local situation of the shares in question as a basis for liability to succession duty the share certificates being under the corporate seal of the company 40  
should be held to be specialties and to give the shares in question a local situation in Buffalo.

The question was considered and dealt with in *re Drogheda Steampacket Co. Ltd.*, (1903) L Ch.D. Irish, 512, where the headnote reads as follows :

“ Dividends on ordinary shares in a Company had been declared

“and became payable more than six and less than twenty years before  
“the claims for them were made by the shareholders.

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“Held, that the share certificates, as governed by the Articles of  
“Association, constituted a specialty debt, and that consequently the  
“arrears of dividend were recoverable after the lapse of six years.”

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The argument in favour of the claim was that the share is an interest  
in the company proportionately to the sum subscribed, and is subject  
to the rights and liabilities regulated by the Articles of Association, one  
right of which is that the shareholder shall be paid his dividend, and  
10 the company has admitted the right to one share by the certificate which  
is under seal. The dividend is a mere adjunct to the share and goes  
with the share, and the certificate in admitting the right to the share  
admits the right to the dividend. The judgment is that of the Master  
of the Rolls, who, among other things, observed :—

“The share certificate confers a right to a portion of the property  
“of the Company on a shareholder by reason of a contractual relation  
“between the shareholder and the Company.” And “the profits of  
“the Company are divisible among the holders of shares in proportion  
20 “to the amount paid. The right to the shares is evidenced by a certificate  
“under the seal of the Company, and the certificate constitutes a  
“specialty obligation, and such certificate incorporates the Articles of  
“Association and gives the holder a right under a specialty contract to  
“dividends.” And he refers in support of his view to *Smith v. Cork  
and Bandon Ry. Co.*, I.R. 5 Eq. 65 ; 22 L.J.C.P. 198.

That case was followed in 1904 by Byrne J. in *re Artisans' Land  
and Mortgage Corporation*, (1904) 1 Ch. 796. Counsel for the shareholder  
relied on the *Drogheda* case, and Byrne J., in the course of his judgment,  
after referring to all the preceding cases that had been cited to him,  
concludes :—

30 “If the decisions are right, and, in my judgment, they are right,  
“that the dividends are due under a specialty, the same principle appears  
“to me to apply in the case of returns of capital ; and, therefore, the  
“period of twenty years is the period of limitation.”

See also *Benson v. Benson*, 1 P. Wms. 130, and *Buck v. Robson*, L.R.  
10 Eq. 639.

For these reasons I think that for the purpose of determining the  
*situs* of the shares in question as founding a liability to succession duty,  
the share certificates in question are to be regarded as specialties in the  
hands of the testator.

40 But I express that view with diffidence not only because we have  
not had the advantage of argument on the point but also because of the  
observations to be found in the 15th Edn. of Palmer's Precedents, Part I,  
at page 727, and in 5 Halsbury at page 421.

If the share certificates are specialties then the rule applies that  
the location of a specialty obligation is where the capacity is found at  
the time of the obligee's death.

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*Commissioner of Stamps v. Hope*, [1891] A.C. 476.

A recent application of the rule is found in *The King v. National Trust Company*, 1933, S.C.R. 670.

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The case involved a claim by the Province of Quebec for succession duties in respect of bonds of the Grand Trunk Pacific Railway and bonds of the Canadian National Railway Company whose head offices were in Montreal at which place the bonds were registered. The bonds belonged to the estate of Sir Clifford Sifton who died domiciled in Ontario. At his death the bonds were in his possession in Toronto. It was held that they were specialties and as such were "locally situate" in Toronto 10 with the result that the claim of the Province of Quebec was denied.

In that case the Chief Justice of Canada in entering upon his reasons says: "The question we have to consider is whether or not these bonds "have, in the relevant sense, a local situation within that Province " (Quebec).

"Some propositions pertinent to that issue may, we think, be "collected from the judgments of the Judicial Committee of the Privy "Council, and if not laid down explicitly, are, at least, implicit in them."

I forbear to quote at length his admirable summary of the rules and principles relevant in such cases as the present save only the last which 20 reads as follows:—

"The circumstances of a particular case may be such that, to them "none of the rules formulated and applied in decided cases or books of "authority is strictly appropriate; and then one must have recourse to "analogy, and to the principles underlying the decisions or the rules as "formulated or deducible therefrom. (*N.Y. Life Ins. Co. v. Public Trustee* " (1924) 2 Ch. 101 at 119, 120.)"

Bearing in mind these rules and principles I conclude on both of the grounds as discussed that the shares in question were at the death of Alexander Duncan Williams locally situate without Ontario. 30

In the foregoing reasons I have attempted to state the legal considerations which in my view directly locate the *situs* of these shares in Buffalo; but I think it not irrelevant to mention certain other facts and circumstances which indirectly bear upon the question.

Some of these circumstances are:—

1. That the property in these shares was completely vested in A. D. Williams, domiciled and resident in Buffalo, and devolved upon and was transmitted to the Respondents on the issue to them of Letters Probate in New York State. *Stern v. The Queen* [1896], 1 Q.B. 211; *Provincial Treasurer of Alberta v. Kerr* [1933], A.C. 710 at 721; *Re Clark, McKechnie v. Clark* (1904), 1 Ch. 294; 40

2. Consequently the shares were subject to succession duty in Buffalo, and have been so taxed and some \$88,000 paid (Evid., p. 39). If the judgment is reversed it will result in double taxation.

3. If Appellant succeeds the result will be that shareholders in Ontario companies domiciled in the United States, or elsewhere out of Ontario,

will be liable for double succession duty. This may well result in their shares being thrown in an avalanche on the market with disastrous economic effects, so that it may become difficult to float abroad the securities of Ontario companies.

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4. The share certificates were in Buffalo and were marketable there. The commercial practice is referred to by Duff, J., as he then was, in *Secretary of State v. Alien Property Custodian*, 1931, S.C.R., at page 190, where he says :—

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10 “ The law of this country as applicable to the corporations with which  
“ we are concerned, recognizes that shares, and particularly those which  
“ are regularly the subjects of trading on stock exchanges are sold and  
“ bought by the delivery of a certificate accompanied by a transfer executed  
“ in blank, and that the market price of the shares is paid upon delivery,  
“ which is treated as the execution of the sale, because it confers upon the  
“ person receiving the document a title, as Lord Watson says, in the case  
“ already cited, ‘ legal and equitable, which will enable the holder to vest  
“ ‘ himself with the shares without risk of his right being defeated by any  
“ ‘ other person deriving title from the registered owner.’ ”

20 5. If this appeal were to be allowed an unfortunate situation might  
well arise if a buyer of shares on a foreign exchange in pursuance of the  
custom above noted should find, when he came to have them transferred  
to his own name that such transfer was impossible because the recorded  
transferor was dead and no clearance had been obtained from the  
the Succession Duty Department.

These circumstances do not bear directly on the legal question which  
we have to determine. They are matters rather for consideration by the  
Legislature. None the less they are not entirely irrelevant and do have  
an indirect bearing, because they tend to induce the Court to examine  
critically the arguments put forward by the Appellant in the present case  
30 and to lean against a construction which would place the *situs* of these  
shares in Ontario.

I would dismiss the appeal with costs.

(D) FISHER, J.A. : The Crown in right of the Province claims that  
a large number of shares in a company incorporated under the Ontario  
Companies Act as the Lake Shore Mines and owned by one Williams, an  
American citizen domiciled in Buffalo, and now deceased, are liable to the  
payment of succession duties. The claim is resisted by the executors of  
the estate of the deceased.

(D) Fisher,  
J.A.

40 The learned trial Judge, McTague, J., was of the opinion that the  
*situs* of these shares was in the United States of America and constituted  
property outside the Province of Ontario. The Head office of the company  
is in Ontario, where the usual books of the company for the purpose of  
carrying on the administration of the company are kept. By resolutions  
of the directors, The Trusts and Guarantee Company Limited was

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appointed transfer agent and registrar of the capital stock of the company in Toronto, and the Royal Trust Company was appointed registrar of the company's stock in the City of Toronto. Because of the fact that the stock of the company was listed for sale and was being sold on the Exchange in New York, a resolution was passed designating and appointing the Manufacturers and Traders Trust Company of Buffalo, New York, as an additional registrar and transfer agent in Buffalo, and where shareholders could have their shares registered and transferred in the United States.

It is not in controversy that for years the American shareholders in the company completed sales of their shares and through the Buffalo agency had new certificates issued and registered in the name of purchasers. Ample provision seems to have been made for the officials of the company in Toronto and Buffalo to make known to one another of the transfers and the issues of new certificates to purchasers. 10

For the Crown it is contended that the Head Office of the company being in Ontario there was no power in the company under the Ontario Companies Act to set up a transfer office in Buffalo, and cited in support of that contention *Erie Beach Company v. Ontario*, 63 O.L.R. 469, and [1930] A.C. 161. As the learned trial Judge has in his reasons clearly distinguished that case from the case at bar, and has fully considered the relevant sections of the Ontario Companies Act—in which there is to be found no prohibition in establishing a transfer office outside of Ontario—the status and capacity at common law of an Ontario company and particularly what was decided in the *Bonanza Creek case* [1916] A.C. and the other cases, to which he has made reference, no useful purpose is served by a repetition of what has been so accurately stated by him. I fully agree with his reasons and conclusions. 20

In my opinion, as Williams had the physical control of the certificates of these shares up to the time of his decease and registered in his name and therein evidencing ownership in him of property in the United States of America, and property which he could have sold and effectively transferred at any time to a purchaser in the United States of America, and also could have assigned or pledged as security in a commercial transaction to an American citizen, that the *situs* of the shares was in the United States of America, and were not property situate in Ontario and liable to succession duty. 30

I agree with the reasons and conclusions of my brother Masten and desire to state that his learned and exhaustive reasons in dealing with his second ground for dismissing the appeal will be of great benefit to the profession. 40

(E) Hender-  
son, J.A.

(E) HENDERSON, J.A. : An appeal from the judgment of McTague, J., of May 15th, 1940.

I concur in the judgment of the learned trial Judge and in his reasons therefor.

I have had the privilege of reading the opinion of my brother Masten,

and I agree that the second ground discussed by him for dismissing the appeal is not necessary to the judgment of this Court. I prefer to express no opinion as the point was not argued. It is however of great interest from the standpoint of Canadian Company law.

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Tuesday, the 8th day of April, A.D. 1941.

The Honourable THE CHIEF JUSTICE OF ONTARIO.

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Between

EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS, Executors  
of the Will of ALEXANDER DUNCAN WILLIAMS, deceased  
and *Suppliants (Respondents).*

HIS MAJESTY THE KING, as represented by the ATTORNEY-  
GENERAL FOR ONTARIO ... .. *Respondent (Appellant).*  
(Seal.)

20

UPON the application of Counsel for His Majesty the King in the presence of Counsel for the Suppliants (Respondents) for an order admitting the appeal of His Majesty the King to His Majesty in His Privy Council, and upon reading the Petition and the proceedings thereon, the judgment of the Honourable Mr. Justice McTague dated the 15th day of May, 1940, and the Order of the Court of Appeal of the Province of Ontario dated the 16th day of November, 1940, and upon hearing Counsel aforesaid.

1. It Is Ordered that the appeal from the said Order of the Court of Appeal to His Majesty in His Privy Council be admitted.

2. And It Is Further Ordered that the costs of this application be costs in the said appeal.

(Signed) CHAS. W. SMYTH,  
*Registrar, S.C.O.*

30

Entered O.B. 177 page 586  
April 8th, 1941,  
(Signed) H. F.



Exhibits.

## EXHIBITS.

1.  
Letters  
Patent,  
incorporat-  
ing Lake  
Shore  
Mines,  
Limited,  
25th Febru-  
ary, 1914.

## 1. Letters patent incorporating Lake Shore Mines Ltd.

(Seal.)

Recorded this 3rd day  
of March, A.D. 1914,  
as No. 65.

(Crest.)

PROVINCE OF ONTARIO.

L. H. IRVING, Asst. Deputy Provincial Registrar.

By The Honourable WILLIAM JOHN HANNA, Provincial Secretary.

TO ALL TO WHOM THESE PRESENTS SHALL COME—

GREETING :

10

WHEREAS The Ontario Companies Act provides that with the exceptions therein mentioned the Lieutenant-Governor may by Letters Patent create and constitute bodies corporate and politic for any of the purposes to which the authority of the Legislature of Ontario extends ;

And Whereas by the said Act it is further provided that the Provincial Secretary may under the Seal of his office have, use, exercise, and enjoy any power, right, or authority conferred by the said Act on the Lieutenant-Governor ;

And Whereas by their Petition in that behalf the persons herein mentioned have prayed for Letters Patent constituting them a body corporate and politic for the due carrying out of the undertaking hereinafter set forth ;

And Whereas it has been made to appear that the said persons have complied with the conditions precedent to the grant of the desired Letters Patent and that the said undertaking is within the scope of the said Act.

Now Therefore Know Ye that I, WILLIAM JOHN HANNA, Provincial Secretary, under the authority of the hereinbefore in part recited Act

Do by these Letters Patent Hereby Constitute the Persons hereinafter named that is to say— 30

Hugh LeRoy Slaght, Arthur Greame Slaght and Daniel Western O'Sullivan, Barristers-at-Law ; and William Emery Wilson, Student-at-Law, all of the Town of Haileybury, in the District of Temiskaming, and Province of Ontario ; and Letty Scott, of the Town of New Liskeard, in the said District of Temiskaming, Stenographer, and any others who have become subscribers to the Memorandum of Agreement of the Company,

and persons who thereafter become shareholders in the Company, a Corporation for the following purposes and objects, that is to say :—

- (a) To acquire, own, lease, prospect for, open, explore, develop, work, improve, maintain and manage mines and mineral lands and deposits, and to dig for, raise, crush, wash, smelt, assay, analyze, reduce, amalgamate, refine, pipe, convey and otherwise treat ores, metals and minerals, whether belonging to the Company or not, and to render the same merchantable and to sell or otherwise dispose of the same or any part thereof or interest therein; and (b) To take, acquire and hold as consideration for ores, metals or minerals sold or otherwise disposed of or for goods supplied or for work done by contract or otherwise, shares, debentures or other securities of or in any other company having objects similar in whole or in part to those of the Company hereby incorporated and to sell and otherwise dispose of the same ;

The Corporate Name of the Company to be LAKE SHORE MINES, LIMITED (No Personal Liability) ;

The Capital of the Company to be One Million Five Hundred Thousand Dollars, divided into One Million Five Hundred Thousand Shares of One Dollar each ;

- 20 The Head Office of the Company to be situate at the said Town of Haileybury, and

The Provisional Directors of the Company to be Hugh LeRoy Slaght, William Emery Wilson, Letty Scott, Arthur Greame Slaght and Daniel Western O'Sullivan, hereinbefore mentioned.

And I Hereby Authorize the Company to hold meetings of its shareholders, directors or executive committees outside of the Province of Ontario.

- 30 And subject to the provisions of Part VII of the said Act I Hereby Declare that the Company may pay a 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. Provided, however, that the said commission shall not exceed twenty-five per centum of the amount realized upon the sale of such shares.

And I Declare that the said Company shall be subject to the provisions of Part XI of The Ontario Companies Act.

- 40 Given under my Hand and Seal of Office at the City of Toronto in the said Province of Ontario this Twenty-fifth day of February, in the year of Our Lord One Thousand Nine Hundred and Fourteen.

W. J. HANNA,  
*Provincial Secretary.*

(L.S.)

Exhibits.

1.

Letters Patent, incorporating Lake Shore Mines, Limited, 25th February, 1914—  
*continued.*

Exhibits.

**2. Supplementary Letters Patent.**

2.  
Supplemen-  
tary  
Letters  
Patent,  
14th Sep-  
tember,  
1916.

(Seal.)

(Crest)

PROVINCE OF ONTARIO.

By The Honourable WILLIAM JOHN HANNA, Provincial Secretary.

TO ALL TO WHOM THESE PRESENTS SHALL COME—

GREETING :

WHEREAS the Ontario Companies Act enacts that the Lieutenant-Governor may from time to time direct the issue of Supplementary Letters Patent to a Corporation embracing any or all of the matters in the said Act set forth ;

10

And Whereas by the said Act it is further provided that the Provincial Secretary may under the Seal of his Office have, use, exercise and enjoy any power, right or authority conferred by the said Act on the Lieutenant-Governor ;

And Whereas by its Petition in that behalf Lake Shore Mines, Limited (No Personal Liability) has prayed for Supplementary Letters Patent for the purpose of increasing the capital of the Company ;

And Whereas it has been made to appear that the said company has complied with the conditions precedent to the grant of the desired Supplementary Letters Patent ;

20

Now Therefore Know Ye that I, William John Hanna, Provincial Secretary, under the authority of the hereinbefore in part recited Statute Do By These Supplementary Letters Patent hereby increase the capital stock of

LAKE SHORE MINES, LIMITED

(No Personal Liability)

from the sum of One Million Five Hundred Thousand Dollars, to the sum of Two Million Dollars by the creation of Five Hundred Thousand shares of new stock of One Dollar each.

Given under my Hand and Seal of Office at the City of Toronto in the said Province of Ontario this Fourteenth day of September in the year of Our Lord One Thousand Nine Hundred and Sixteen.

30

W. J. HANNA (L.S.)  
*Provincial Secretary.*

**3. Copies of the By-laws appearing in Minute Book of Lake Shore Mines Ltd.**

3.  
Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923.

BY-LAW NUMBER 1.

Whereas subscriptions for five shares of the capital stock of the Company have been received, and the amount thereof has been paid into the Company in cash, and the Directors deem it expedient that a By-law should be passed for the purposes hereinafter set forth :

40

Now Therefore Be It Enacted And It Is Hereby Enacted :

1. That the minimum subscription on which the Directors of this Company may proceed to allotment of stock be, and the same is hereby declared to be five shares.

2. That the following shares of stock of this Company subscribed for, and for which the Company has been paid in cash be, and the same are hereby allotted as follows :—

	Hugh Leroy Slaght	...	...	...	...	one share
	Arthur Greame Slaght	...	...	...	...	one share
10	Daniel Western O'Sullivan	...	...	...	...	one share
	William Emery Wilson	...	...	...	...	one share
	Letty Scott	...	...	...	...	one share

Dated and Enacted this 30th day of May, 1914.

Confirmed this 30th day of May, 1914.

(Signed) A. G. SLAGHT, *President*.

(Signed) W. WILSON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal).

20

BY-LAW NUMBER 2.

Whereas the Directors of Lake Shore Mines, Limited, deem it advisable and expedient that a general By-law should be enacted for the purposes hereinafter set forth :

Now Therefore Be It Enacted and It Is Hereby Enacted as follows :—

1. The Head Office of the Company shall be " Haileybury, Ontario," and at such place therein as the Directors may from time to time decide.

2. The Seal, an impression of which is stamped on the margin hereof, shall be the Seal of the Company.

30  
3. The annual meeting of the shareholders shall be held at the office of the Company, or elsewhere as the Board may appoint, on such date in each year as the directors may appoint. Notice of shareholders' meetings, annual or special, may be given by advertisement in a public newspaper published at Haileybury or at such other place as the directors may from time to time select ten days before the meeting ; or notice of the time and place of such meeting may be mailed to each shareholder to his last known post office and deposited with postage prepaid in the post office at Haileybury at least seven days before the holding of such meeting ; Provided always that general and special meetings of shareholders may be held at any time and place without such notice, if all the shareholders of  
40 the Company are present thereat, or represented thereat by proxy duly appointed or if those unrepresented have consented to waive notice and at such meetings any business may be transacted which the Company in general or special meetings may transact. The accidental failure to give notice is not to affect in any way the validity of any such meetings or any of the proceedings thereat.

Exhibits.

3.

Copies of the By-laws appearing in Minute Book of Lake Shore Mines, Ltd., 1914-1923  
—continued.

Exhibits.  
 —  
 3.  
 Copies of  
 the By-laws  
 appearing  
 in Minute  
 Book of  
 Lake Shore  
 Mines, Ltd.,  
 1914-1923  
 —continued.

4. The quorum for the transaction of business in meeting of the shareholders shall consist of not less than four shareholders present in person or represented thereat by proxy.

5. The name and post office address of each shareholder and Director shall be entered in a register and until notification in writing of a new address is received by the Secretary, the last address appearing in the register shall be deemed the post office address and the last known address of such shareholder or director.

6. No person shall be entitled to vote or act as proxy for another shareholder unless he is himself entitled to vote at meetings of the Company and a proxy shall deposit a written authority with the secretary before tendering his vote as such proxy. 10

7. Any shareholder holding at least one share absolutely in his own right and not in arrear in respect of any call thereon, may be elected as a director.

8. The business of the Company shall be managed by a board of five directors. The directors shall be elected for a term of one year and shall, if otherwise qualified, be eligible for re-election and shall continue in office until the election of their successors, except in case of disqualification or removal under Section 15 hereof. 20

#### MEETINGS.

9. The regular meetings of the Directors of the Company shall without notice be held on the first Monday in each month at the hour of ten o'clock in the forenoon, either at the Head Office of the Company or at such other fixed time or times and place or places, either within or outside of the Province of Ontario, as the Directors present at any regular meeting of directors may from time to time determine. Notice of any special meeting of the directors may be given by telegram or verbally. In case of notice by letter, telegram or verbally, such special meeting may be held on the expiration of three days from the giving of such verbal notice or the despatching of such telegram or the mailing of such letter. Any Director may waive the right to notice of any meeting of directors and the meeting of directors shall be properly constituted notwithstanding the absence of the director so waiving notice, provided there is a quorum present at such meeting and the said waiver of notice shall apply according to its terms until withdrawn. 30

10. Any general or special meeting of the Company shall be deemed a regular meeting when all the shareholders are present in person or by proxy, without regard to notice thereof or place or time of meeting and signify their consent to such meeting being considered a regular meeting or when all shareholders who are present signify their consent, and those who may not be present in person or by proxy waive in writing (including telegram and whether before or after such meeting) notice of such meeting. 40

11. There shall be elected by and from the Board of Directors a President, a Vice-President and a Managing Director, and there shall be a Treasurer and a Secretary and such other officer or officers (if any) as the Board may

deem necessary for the management and conduct of the business of the Company appointed by the Board, but not necessarily from the Board, and any one person may hold more than one of the offices and positions above described.

12. The President shall be chosen from the Board of Directors from amongst their number at the first meeting after their election or appointment or at any adjourned meeting thereof, the President shall if present preside as chairman at all meetings of the said Company and of the Board and shall have charge of the meeting. In case of his absence, the Vice-  
 10 President, if present, shall preside ; failing him those who are present shall choose some one of their number as chairman.

13. The Vice-President and Managing Director shall be chosen in the same way as the President.

14. The Managing Director, Secretary and Treasurer and all the officers of the Company shall perform such duties as may be assigned to them respectively by the Board of Directors and one person may fill more than one office.

15. If a Director shall cease to be a Director of the Company, whether  
 20 by ceasing to hold stock therein or by resignation or death, the remaining members of the Board may declare a vacancy and the same may be filled for the unexpired remainder of the term by the remaining members of the board from amongst the qualified shareholders of the Company.

16. All cheques, notes, drafts or orders for the payment of money, shall be signed by such officer or officers and in such manner as the board may from time to time by resolution appoint and direct for the purpose.

17.—A stock transfer book shall be provided in such form as the Board of Directors may approve of and all transfers of stock in the capital of the Company shall be made in such book and shall be signed by the transferor or by his attorney duly appointed in writing, stock certificates  
 30 shall be in such form as the Board may approve of and shall be under the seal of the Company and shall be signed by the President or Vice-President and the Secretary or such other officer in place of the Secretary as the Board may by resolution authorize.

18.—The stock of the Company may be allotted from time to time by the directors by resolution.

19.—The Board shall from time to time fix the salary or wages or other remuneration to be paid officers of the Company, including directors holding any office. Directors shall be paid out of the funds of the Company for all expenses in reference to the conduct and management of the Company,  
 40 and for any services rendered to the Company in connection with its purchase of the assets or stock of any Company or its amalgamation with any company or for any legal services rendered to the Company.

20.—The Board may appoint a Solicitor for whose services such remuneration shall be allowed as may be reasonable or as may be agreed upon.

Exhibits.

3.

Copies of the By-laws appearing in Minute Book of Lake Shore Mines, Ltd., 1914-1923  
 —continued.

Exhibits.

3.

Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923  
—continued.

21.—Once at least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year. A balance sheet shall be made out at least once in every year and laid before the Company in general meeting, and such balance shall contain a summary of the property and liabilities of the Company arranged under the necessary headings.

22.—One or more auditors shall be appointed annually by the shareholders at the annual general meeting, whose duty it shall be to examine and audit all books, vouchers, and accounts of the Company and all documents having reference to the business thereof. Their remuneration shall be fixed by the shareholders in general meeting, except that the remuneration of any auditor appointed before the first General Meeting, or to fill any casual vacancy, may be fixed by the Board of Directors. 10

23.—The directors may by By-law from time to time vary, amend, rescind or re-enact any of the By-laws of the Company in whole or in part.

Passed by the Board of Directors and adopted this 30th day of May, 1914.

(Signed) A. G. SLAGHT, *President*.

(Signed) W. E. WILSON, *Secretary*.

LAKE SHORE MINES, LIMITED. 20

(Seal)

#### BY-LAW NUMBER 3.

Whereas, the Directors of Lake Shore Mines, Limited, deem it expedient that a By-law should be passed for the purposes hereinafter set forth :

Now Therefore Be It Enacted and It Is Hereby Enacted as follows :

1. That the Directors of the Company may from time to time—

- (a) Borrow money upon the credit of the Company ;
- (b) Limit or increase the amount to be borrowed ;
- (c) Issue the bonds, debentures, or other securities of the Company for the lawful purposes of the Company and no other, and may pledge or sell the same for such sums and at such prices as may be deemed expedient or be necessary, but no such bonds, debentures or other securities shall be for a less sum than one hundred dollars each ; and
- (d) Hypothecate, mortgage or pledge all or any of the real or personal property, rights and powers of the Company to secure any such bonds, debentures or other securities, and any indebtedness or sum or sums so borrowed for the purpose of the Company.

2. That the Directors are hereby authorized to execute and deliver from time to time to the bank or banks of, or doing business with the Company, a mortgage, or mortgages upon all the real and personal immovable and movable property of the Company or any portion or portions thereof by way of additional security for all debts contracted by the Company to the said bank or banks in the course of its business. 40

3. That the Directors are hereby authorized from time to time to assign, transfer and set over to the said bank or banks all the present and future debts, claims, rights, powers, bills of lading, or smelter receipts by way of additional security for all debts contracted to the said bank or banks in the course of its business.

4. That the Directors are hereby specially authorized to borrow or apply for a line of credit from said bank or banks upon the security of the present and future goods, assets, ore and property of the Company and give such security or securities therefor as they may see fit.

10 5. That the powers conferred on the Directors by this By-law shall extend to all future directors and shall apply to all present and future sums borrowed or to be borrowed upon the credit of the Company, or for the purposes thereof, and to all present and future property or assets of the Company, whether specifically referred to in this By-law or not and the Directors may at any time and without any further sanction issue said bonds, debentures or any securities or hypothecate, mortgage or pledge the real or personal property of the Company as security therefor, for any sum already borrowed or for any sums borrowed at the time or any future time.

Enacted this 30th day of May, 1914.

20 Confirmed this 30th day of May, 1914.

(Sgd.) A. G. SLAGHT, *President.*

(Sgd.) W. E. WILSON, *Secretary.*

LAKE SHORE MINES, LIMITED.

(Seal).

#### BY-LAW NUMBER 4.

Whereas the Directors of the Company deem it expedient that a By-law should be passed for the purposes hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted as Follows :

30 1. That this Company do enter into an agreement with Harry Oakes, dated the 30th day of May, 1914, whereby this Company shall acquire all the interest of the said Harry Oakes, in certain Mining Lands, and land covered with water registered under the Land Titles Act, as parcels 6715-7616-6717, and 9086, in the Registry for North Division Nipissing, situate in the Township of Teck, in the District of Temiskaming, and shall issue to the said Harry Oakes, therefor, seven hundred and fifty thousand (750,000) shares of the capital stock in this Company of the par value of one dollar (\$1.00) per share fully paid and non-assessable.

40 2. That the officers of the Company are directed to execute the said agreement between this Company and the said Harry Oakes, dated the 30th May, 1914 (copy of which is annexed to this By-law) and to affix the Corporate Seal of the Company thereto.

3. That the Directors of the Company be and they are hereby authorized to allot and issue to the said Harry Oakes, or his nominee, or nominees seven hundred and fifty thousand (750,000) shares of the capital stock of

Exhibits.  
—  
3.  
Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923  
—continued



Exhibits. this Company fully paid and non-assessable and that Stock Certificates for such shares of stock be forthwith issued to the said Harry Oakes, or his nominee or nominees accordingly.

3.  
Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923  
—continued.

Enacted this 30th day of May, 1914.

Confirmed this 30th day of May, 1914.

(Signed) A. G. SLAGHT, *President*.

(Signed) W. E. WILSON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal).

BY-LAW NUMBER 5.

10

Whereas the Directors deem it expedient that a By-law should be passed for the purposes hereinafter set forth:

Now Therefore Be It Enacted And It Is Hereby Enacted as Follows :—

1.—That the Directors of this Company are hereby empowered to issue three hundred thousand shares (300,000) of the Treasury Stock of this Company, or such part or parts thereof from time to time as they may deem expedient as fully-paid and non-assessable, at a discount of fifty per cent. (50%) below the par value of one dollar (\$1.00) per share, so that the price per share of said stock if sold at such discount shall be fifty cents per share.

20

Enacted this 30th day of May, 1914.

Confirmed this 30th day of May, 1914.

(Signed) A. G. SLAGHT, *President*.

(Signed) W. E. WILSON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal).

BY-LAW NUMBER 6.

Whereas the Directors of the Company deem it expedient that a By-law should be enacted for the following purposes :—

Now Therefore Be It Enacted And It Is Hereby Enacted as Follows :— 30

That this Company do purchase from Harry Oakes, W. H. Wright and Shirley Cragg, Mining Claim L-3601 in the Larder Lake Mining Division, situated in the Township of Teck and the two easterly portions of Claim L-2242 in said Division and Township, which said two easterly portions are more fully described in an agreement made between George Tough, *et al*, and F. M. Connell, dated the 18th day of July, 1913, and registered in the office of the Larder Lake Mining Recorder, and that the price to be paid therefor shall be the allotment and issue to the three vendors named of 83,333 shares of stock of Lake Shore Mines, Limited, fully paid and non-assessable, and the sum of One Thousand Dollars, which price and consideration from this Company to the vendors be paid upon the assignment or transfer to the Company either to be made by the vendors direct or to be procured by them to be made to the Company

40

direct from F. M. Connell of the said Claim L-3601 and the two easterly portions of L-2242 as follows :—

To the vendor Harry Oakes, 25,000 shares of stock and the sum of \$1,000.00 hereinbefore referred to.

To the vendor W. H. Wright, 16,667 shares of stock.

To the vendor, Shirley Cragg, 41,666 shares of stock.

That the officers of the Company be and they are hereby authorized upon delivery to the Company of assignment or transfer of the said Claim 3601 and the two easterly portions of L-2242 to issue the stock certificate 10 for the shares of stock to the vendor as above set forth, and carry out the said purchase.

Enacted this 14th day of August, 1914.

Confirmed January 12, 1917.

(Signed) HARRY OAKES, *President*.

(Signed) A. E. SLAGHT, *Secretary*.

LAKE SHORE MINES, LIMITED

(Seal).

BY-LAW NUMBER 7.

Whereas the Directors deem it expedient that a By-law should be 20 passed for the following purposes :

Now Therefore Be It Enacted And It Is Hereby Enacted :—

1.—That cheques for the payment of the proper and necessary expenditures of the Company may be signed for the Company in such manner and by such officer or officers, including the Manager of the Company, as the Board may by resolution from time to time provide.

Enacted this 15th day of August, 1914.

Confirmed January 12, 1917.

(Signed) HARRY OAKES, *President*.

(Signed) A. E. SLAGHT, *Secretary*.

LAKE SHORE MINES, LIMITED

(Seal).

BY-LAW NUMBER 8.

Whereas the Directors deem it expedient that a By-law should be passed for the following purposes :

Now Therefore Be It Enacted And It Is Hereby Enacted :—

1.—That the Company do take from W. H. Wright an option agreement respecting Claim Number L-2645 in accordance with the draft agreement attached to this By-law and that the Company hereby authorizes the execution of same by its proper officers, and by affixing its Corporate 40 Seal thereto.

Enacted this 15th day of August, 1914.

Confirmed January 12, 1917.

(Signed) HARRY OAKES, *President*.

(Signed) A. E. SLAGHT, *Secretary*.

LAKE SHORE MINES, LIMITED

(Seal).

Exhibits.

3.

Copies of the By-laws appearing in Minute Book of Lake Shore Mines, Ltd., 1914-1923

—continued.

Exhibits.

## BY-LAW NUMBER 9.

3.

Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923  
—continued.

Whereas the Directors deem it expedient that a By-law should be passed for the following purposes :

Now Therefore Be It Enacted And It Is Hereby Enacted :—

1. That the location of the Head Office of the Company heretofore situate at Haileybury, Ontario, be, and the same is hereby changed from Haileybury to the property of the Company in the Township of Teck at Kirkland Lake in the Province of Ontario, with Post Office address Kirkland Lake P.O. Ontario.

2. That clause one of By-law No. 2 of the Company be, and the same is hereby amended to accord with the provisions contained in paragraph one of this By-law, and that the words " Haileybury, Ontario " contained in clause one of By-law No. 2, be stricken out, and that the words " at the property of the Company in the Township of Teck at Kirkland Lake in the Province of Ontario, with Post Office address Kirkland Lake, P.O., Ontario " be substituted therefor. 10

3. That this By-law shall be submitted for consideration of the shareholders of the Company.

Enacted this 14th day of November, 1914.

Confirmed this 14th day of November, 1914. 20

(Signed) HARRY OAKES, *President*.

(Signed) A. G. SLAGHT, *Secretary*.

LAKE SHORE MINES LIMITED.

(Seal).

## BY-LAW NUMBER 10.

Whereas the Directors of Lake Shore Mines, Limited, deem it advisable to enact a By-law for the following purposes :

Now Therefore Be It Enacted And It Is Hereby Enacted as Follows :

1. That Lake Shore Mines, Limited, do purchase from W. H. Wright, the owner and recorded holder thereof, Mining Claim situate in the Township of Teck and recorded in the Larder Lake Mining Division as L-2645, for the price of One Hundred and Sixty-six Thousand and Six Hundred and Sixty-seven dollars (\$166,667) to be paid for by the issue and delivery to W. H. Wright of One Hundred and Sixty-six Thousand, Six hundred and Sixty-seven (166,667) shares of the capital stock of Lake Shore Mines, Limited, to be issued fully paid and non-assessable, in return for the said Mining Claim. 30

2. That the Officers of this Company be authorized to carry out the purchase of the said Mining Claim.

Enacted this 12th day of July, 1915. 40

Confirmed January 12, 1917.

(Signed) HARRY OAKES, *President*.

(Signed) J. W. MORRISON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal).

## BY-LAW NUMBER 11.

Whereas the Directors of the Lake Shore Mines, Limited, deem it expedient that a By-law should be passed for the purpose hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :

1. That the Company be and the same is hereby authorized and empowered from time to time as the Directors by resolution may provide, to borrow money upon the credit and security of the Company under the provisions of By-law No. 3 of the Company, from any Bank or Banks,  
 10 company or person or persons, whether or not such person or persons may be at the time of such borrowing a director or directors of the Company ; providing, however, that the Company shall not borrow from nor be under obligations to pay to any director or directors of the Company at any time more than the sum of fifty thousand dollars (\$50,000.00).

2. That no money shall be borrowed under the provisions of this By-law by the Company until such By-law has been submitted at a meeting of the shareholders of the Company, called for the purpose of considering same, and confirming by a majority of at least two-thirds in value of the shares of the shareholders of the Company who may be present or duly represented  
 20 by proxy at such meeting.

Enacted this 21st day of January, 1916.

Confirmed February 1, 1916.

(Signed) HARRY OAKES, *President*.

(Signed) J. W. MORRISON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal).

## BY-LAW NUMBER 12.

Whereas the Directors of the Lake Shore Mines, Limited, deem it expedient to enact a By-law for the following purpose :

30 Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :

1. That all the remaining shares of the Treasury of this Company unissued on this, the 3rd day of July, 1916, may be sold, allotted and issued at a discount not to exceed 80% so that such shares may be sold at a price of not less than 20 cents per share, in such amounts and at such time and at such prices from time to time as the Directors of the Company may by resolution determine.

Confirmed July 15, 1916.

(Signed) J. W. MORRISON, *Secretary*.

(Signed) HARRY OAKES, *President*.

LAKE SHORE MINES, LIMITED.

(Seal).

40

## BY-LAW NUMBER 13.

Whereas the Directors of Lake Shore Mines, Limited, deem it expedient that a By-law should be enacted for the following purposes :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

1.—That the Capital Stock of the Company be increased by Five

Exhibits.

3.

Copies of the By-laws appearing in Minute Book of Lake Shore Mines, Ltd., 1914-1923  
 —continued.

Exhibits. ——— Hundred Thousand shares, from the present Authorized Capital of One Million, Five Hundred Thousand shares to an Authorized Capital of Two Million shares.

3.  
Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923  
—continued.

2.—That an Application to the Lieutenant-Governor of the Province of Ontario for the issue of Supplementary Letters Patent, providing for increasing the Capital of the Company by such Five Hundred Thousand shares, be and the same is hereby authorized.

(Signed) J. W. MORRISON, *Secretary*.

(Signed) HARRY OAKES, *President*.

Enacted this 15th day of July, 1916.

Confirmed 22nd day of August, 1916.

10

LAKE SHORE MINES LIMITED.

(Seal.)

BY-LAW NUMBER 14.

Whereas the Directors of the Lake Shore Mines, Limited, deem it advisable that a By-law be passed for the following purposes :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

1.—That the Directors of the Company be authorized to pay a commission on the sale of the Treasury Stock of the Company, to authorized Agents of the Company, from time to time and at such terms as the Directors may by resolution provide ; providing, however, that the commission does not exceed 25 % of the amount realized on the sale of such shares.

(Signed) J. W. MORRISON, *Secretary*.

(Signed) HARRY OAKES, *President*.

Enacted this 15th day of July, 1916.

Confirmed this 15th day of July, 1916.

LAKE SHORE MINES, LIMITED.

(Seal.)

BY-LAW NUMBER 15.

30

Whereas the Directors of the Lake Shore Mines, Limited, deem it expedient that a By-law be passed for the purpose hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

1.—That the Directors of the Company are hereby empowered to issue Three Hundred Thousand (300,000) shares of the capital stock of the Company, or such part or parts thereof, from time to time, as they may deem expedient, as fully paid and non-assessable, at a discount not exceeding 70 % of the par value of the stock, or at a price of not less than 30 cents per share.

Enacted this 25th day of June, 1917.

Confirmed this 10th day of July, 1919.

40

(Signed) HARRY OAKES, *President*.

(Signed) J. W. MORRISON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal.)

## BY-LAW NUMBER 16.

Whereas the Directors of the Lake Shore Mines, Limited, deem it advisable that a By-law be passed for the purpose hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

That the Directors of the Company are hereby empowered to issue the remaining Two Hundred Thousand (200,000) shares of the Capital Stock of the Company from time to time as they may deem expedient, as fully paid and non-assessable, at a discount not to exceed 70 % of the par value of the stock.

10 Enacted this 8th day of August, 1917.

Confirmed the 1st day of September, 1917.

(Signed) HARRY OAKES, *President*.

(Signed) J. W. MORRISON, *Secretary*.

LAKE SHORE MINES, LIMITED.

(Seal.)

## BY-LAW NUMBER 17.

Whereas the Directors of the Lake Shore Mines, Limited, deem it expedient that a By-law be passed for the purpose hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

20 1.—That the number of Directors of Lake Shore Mines, Limited, be and the same is increased from five to seven.

Confirmed this 20th day of January, 1919.

(Signed) HARRY OAKES, *President*.

(Signed) KIRKLAND SECURITIES LIMITED, *Secretary*.

Per G. OAKES.

Enacted this 8th day of January, 1919.

Filed in the Department of the Secretary and Registrar as of the 1st of February, 1919.

LAKE SHORE MINES, LIMITED.

(Seal.)

30

## BY-LAW NUMBER 18.

Whereas the Directors of the Lake Shore Mines, Limited, deem it expedient that a By-law be passed for the purpose hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

That the sum of Five Thousand (\$5,000.00) Dollars be set aside and paid for Directors' fees for the year 1918, of which one-half is to be paid to the President and Managing Director and the balance divided equally among the remaining Directors.

Enacted this 22nd day of July, 1918.

04 Confirmed this 20th day of January, 1919.

(Signed) HARRY OAKES, *President*.

(Signed) KIRKLAND SECURITIES LIMITED, *Secretary*.

Per G. OAKES.

LAKE SHORE MINES, LIMITED.

(Seal.)

Exhibits.

3.

Copies of the By-laws appearing in Minute Book of Lake Shore Mines, Ltd., 1914-1923

—continued

Exhibits.

## BY-LAW NUMBER 19.

3.  
Copies of  
the By-laws  
appearing  
in Minute  
Book of  
Lake Shore  
Mines, Ltd.,  
1914-1923  
—continued.

Whereas the Directors of the Lake Shore Mines, Limited, deem it expedient that a By-law be passed for the purpose hereinafter set forth :

Now Therefore Be It Enacted And It Is Hereby Enacted as Follows :—

That the sum of Ten Thousand (\$10,000.00) Dollars be set aside and paid for Directors' fees for the year 1919, of which one-half is to be paid to the President and Managing Director and the balance divided equally among the remaining Directors.

Enacted this 17th day of December, 1918.

Confirmed this 20th day of January, 1919.

10

(Signed) HARRY OAKES, *President.*

(Signed) KIRKLAND SECURITIES LIMITED, *Secretary.*

Per G. OAKES.

LAKE SHORE MINES, LIMITED.  
(Seal.)

## BY-LAW NUMBER 20.

Whereas the Directors of Lake Shore Mines, Limited, deem it advisable to enact a By-Law for the following purpose :

Now Therefore Be It Enacted And It Is Hereby Enacted As Follows :—

1. That the number of Directors of the Company be reduced from seven to five. 20

2. That By-law No. 17 of the Company be and the same is amended accordingly.

3. That this By-law be submitted to a meeting of the shareholders of the Company to be held on the 12th day of December, 1923, at the Head Office of the Company at Kirkland Lake, Ontario, at the hour of 2.30 o'clock in the afternoon, duly called for considering the same.

Enacted this 29th day of October, 1923.

Confirmed this 12th day of December, 1923.

(Signed) HARRY OAKES, *President.*

(Signed) KIRKLAND SECURITIES LIMITED, *Secretary.*

30

Per G. OAKES.

LAKE SHORE MINES, LIMITED.  
(Seal.)

Filed in the Department of the Secretary and Registrar as of the 17th December, 1923

**4. Resolution passed at a meeting of Directors of Lake Shore Mines Ltd.**

Exhibits.

I, G. F. DOGGETT, Secretary of Kirkland Securities, Limited, which is Secretary of Lake Shore Mines Limited, Do Hereby Certify that the annexed is a true copy of a Resolution passed at a meeting of Directors of Lake Shore Mines Limited held at Kirkland Lake, Ontario, on December 21st, 1916, the same having been compared by me with the original.

Dated this 3rd day of May, 1940.

(Sgd.) "G. F. DOGGETT."

LAKE SHORE MINES LIMITED.

(Seal.)

4.  
Resolution  
passed at a  
meeting of  
Directors of  
Lake Shore  
Mines, Ltd.,  
21st Decem-  
ber, 1916.

10

Whereas it is deemed advisable, in the interests of this Company, to appoint a Transfer Agent and Registrar of its stock in the City of Toronto ;

And Whereas The Trusts and Guarantee Company, Limited, have their Head Office in the City of Toronto, and have agreed to act as Transfer Agent and Registrar of the Stock of the Company ;

Now Therefore Be It Resolved

(1) That The Trusts and Guarantee Company, Limited, be and it is hereby appointed Transfer Agent and Registrar of the Capital Stock of the Company in the City of Toronto.

20 (2) That said Transfer Agent and Registrar be and it is hereby authorized and directed to issue certificates of shares when signed by the President or Vice-President, and the Secretary or Assistant Secretary of this Company, and to countersign any new certificates issued in exchange for or against such certificates when surrendered for transfer, when signed by the President or Vice-President, and the Secretary or Assistant Secretary of the Company.

(3) That the Transfer Agent and Registrar be and they are hereby authorized and directed to issue certificates on the certificate of the Secretary of the Company that shares have been purchased and paid for, and that the parties are entitled to Certificates.

30 (4) That in case of doubt or dispute respecting the performance of any of the duties authorized by this Resolution, on the part of the said Transfer Agent and Registrar, that they apply to A. G. Slaght, 804 Royal Bank Bdg. Toronto, Counsel appointed by this Company and acting upon instructions given by Counsel, it shall be fully protected against all liability and held harmless by the Company.

(5) That said Transfer Agent and Registrar shall not be held liable for any act or omission on its part, if performed or omitted to be performed in good faith, and upon advice of duly authorized Counsel of this Company, and shall be indemnified against all loss, cost or damage which might be  
40 incurred by refusing to perform any of its duties as Registrar or Transfer Agent, when acting on the instructions of the Company.

(6) That the Secretary of the Company be and he is hereby authorized and directed to certify to the above Resolution, under the seal of the Company



Exhibits. and thereupon said Resolution shall constitute full authority to said Transfer Agent and Registrar of the Stock of this Company. Carried.

4. Resolution passed at a meeting of Directors of Lake Shore Mines, Ltd., 21st December, 1916—*continued.*  
 It was moved by Mr. Morrison seconded by Mr. Conroy that the proper officers of the Company be authorized to sign the Agreement with The Trust and Guarantee Company, Limited, of Toronto, copy of which was read and approved by the meeting. Carried.

---

5. Agreement between Lake Shore Mines Ltd. and The Trusts & Guarantee Co. Ltd. **5. Agreement between Lake Shore Mines Ltd. and The Trusts & Guarantee Co. Ltd.**

I, G. F. DOGGETT, Secretary of Kirkland Securities, Limited, which is Secretary of Lake Shore Mines, Limited, Do Hereby Certify that the annexed is a true copy of a Memorandum of Agreement dated the 21st day of December, 1916, between Lake Shore Mines, Limited, of the first part and The Trusts and Guarantee Company, Limited, of the second part, the same having been compared by me with the original. 10

Dated this 3rd day of May, 1940.

(Sgd.) " G. F. DOGGETT."

LAKE SHORE MINES LIMITED.

(Seal.)

MEMORANDUM OF AGREEMENT made in triplicate this 21st day of December, 1916.

Between

20

LAKE SHORE MINES, LIMITED (No Personal Liability),  
 hereinafter called " the Company " ... Of the *First Part*,  
 and

THE TRUSTS AND GUARANTEE COMPANY, LIMITED,  
 hereinafter called " the Trust Company " ... Of the *Second Part*.

For Valuable Consideration It Is Agreed :

1. That the Trust Company be and it is hereby appointed Registrar and Transfer Agent of the shares of the Capital Stock of the Company in Toronto.

2. That the Trust Company's compensation as Registrar and Transfer Agent shall be the sum of Two Hundred and Fifty Dollars (\$250.00) in each and every year during the continuance hereof, which will entitle the Company to the issue of 1,500 certificates or a fraction thereof during any 30

such year, and in addition the sum of Fifteen Cents (15c) on each Certificate issued in excess of the said 1,500 up to 3,000, and ten cents (10c) on each Certificate issued in excess of the said 3,000, the first of such payments of Two Hundred and Fifty Dollars (\$250.00) to fall due and be paid on the day of the date hereof and annually thereafter.

The above compensation shall be net to the said Trust Company, that is, the Company shall reimburse the Trust Company for all stationery supplied, postage, telegrams and other outgoing relating solely to the business of the Company.

10 3. That if all or any portion of the fees and disbursements of the Trust Company herein referred to be not paid within ten days after a statement is mailed to the said Company at the address hereinafter given, the said Trust Company may, at its option, proceed for and recover such amount from the Company, and, until payment thereof, shall be under no obligation to permit any transfer or deal with the affairs of the Company in any manner whatsoever, and shall not be called upon or be under any obligation to hand over or deliver any books, records or papers in its possession or under its control, until the said account has been fully paid and satisfied.

20 4. This Agreement may be terminated by either party at any time by giving the other one month's notice in writing. This termination, however, shall not affect the yearly fee hereunder of the said Trust Company, if the agreement is terminated by the Company, it being understood that the said Trust Company's fee shall be a fee to it in any year or fraction thereof during the currency of this contract; provided, however, that if this Agreement is cancelled by the Trust Company for any reason other than a violation of the terms hereof by the Company, then, the said Trust Company shall make a *pro rata* refund of such portion of the annual fee as may have been paid to it for the unexpired portion of the year.

30 5. The Company shall forthwith cause to be delivered to the said Trust Company all Stock Certificates that it has had printed, and where any of such Certificates have been used the stubs of such Certificates and any Certificates that may have been cancelled shall also be forthwith delivered to the Trust Company and all new supplies of Stock Certificates, whether numbered or unnumbered, and whether bound in books or unbound, shall immediately upon being completed by the printer or engraver be delivered to the said Trust Company.

6. The Trust Company shall keep the Company's Stock Ledger during the currency hereof.

40 7. The Company warrants to the Trust Company that it will not publish, or knowingly allow its agents or representatives to publish or distribute any advertising matter containing the name of the Trust Company, a draft or copy of which has not first been submitted to and approved of by the Trust Company.

In case of violation of this clause the Trust Company may, at its option, discontinue to perform its services hereunder, and as liquidated damages shall be entitled to retain any portion of the yearly fee hereunder, which,

Exhibits.

5.

Agreement  
between  
Lake Shore  
Mines Ltd.,  
and The  
Trusts and  
Guarantee  
Co. Ltd.,  
21st Decem-  
ber, 1925—  
*continued.*

Exhibits. in case of non-violation, would be unearned, and to collect and so retain  
 the unpaid balance, if any, of the total yearly fee.

5.  
 Agreement  
 between  
 Lake Shore  
 Mines Ltd.,  
 and The  
 Trusts and  
 Guarantee  
 Co. Ltd.,  
 21st Decem-  
 ber, 1925—  
*continued.*

8. Any notice hereunder shall be deemed to be sufficiently given if sent  
 by letter, addressed as follows :

(1) To the Company,  
 " Lake Shore Mines, Limited,  
 Kirkland Lake, Ontario."

(2) To the Trust Company,  
 " The Trusts and Guarantee Company, Limited,  
 45 King Street West,  
 Toronto, Ont."

10

In Witness thereof the parties have executed these presents.

Signed, Sealed and Delivered in the presence of	}	LAKE SHORE MINES, LIMITED,
		Per HARRY OAKES, <i>Pres.</i>
(Sgd.) D. McCULLOCH	}	J. W. MORRISON, <i>Sect.</i>
		THE TRUSTS AND GUARANTEE COMPANY, LIMITED.
		(Sgd.) (Seal.)

**6. Resolution passed at a meeting of Directors of Lake Shore Mines Ltd.**

6.  
 Resolution  
 passed at a  
 meeting of  
 Directors of  
 Lake Shore  
 Mines Ltd.,  
 21st May,  
 1925.

I, G. F. DOGGETT, Secretary of Kirkland Securities, Limited, which 20  
 is Secretary of Lake Shore Mines Limited, Do Hereby Certify that the  
 annexed is a true copy of a Resolution passed at a meeting of Directors  
 of Lake Shore Mines Limited held at Kirkland Lake, Ontario, on May 21st,  
 1925, the same having been compared by me with the original.

Dated this 3rd day of May, 1940.

G. F. DOGGETT.

LAKE SHORE MINES LIMITED.

(Seal.)

Whereas it is deemed advisable, in the interests of this Company,  
 to appoint a Registrar of its stock in the City of Toronto, independent 30  
 of the Company acting as Transfer Agent.

And, Whereas, The Royal Trust Company, of the City of Toronto,  
 have agreed to act as Registrar of the Company :

Now Therefore Be It Resolved, That the Royal Trust Company be and  
 is hereby appointed to act as Registrar for the stock of the Lake Shore  
 Mines, Limited (No Personal Liability), for such considerations and upon

such terms and conditions as may be mutually arranged, and for the purpose of carrying into effect the above, Mr. Harry Oakes, President of Lake Shore Mines, Limited, is hereby authorized and empowered to make all necessary arrangements with The Royal Trust Company on behalf of this Company.

Moved by Mr. Wright, seconded by Mr. Martin, that the above resolution be accepted and confirmed. Carried.

Exhibits  
 ---  
 6.  
 Resolution passed at a meeting of Directors of Lake Shore Mines Ltd., 21st May, 1925—  
*continued.*

**7. Agreement between Lake Shore Mines Ltd., and The Royal Trust Co.**

Head Office Form No. 9.

10 Executed in Duplicate.

7.  
 Agreement between Lake Shore Mines Ltd., and The Royal Trust Co., 21st May, 1925.

MEMORANDUM OF AGREEMENT, made this 21st day of May 1925 at the City of \_\_\_\_\_ Between LAKE SHORE MINES, LIMITED, Hereinafter called "The Company," herein acting and represented by Harry Oakes, its President, duly authorized hereto and

THE ROYAL TRUST COMPANY, hereinafter called "The Trust Company," herein acting and represented by Robert P. Jellet and Matthew S. L. Richey its Assistant General Manager and Secretary duly authorized hereto.

20 It is Agreed and Covenanted by and between the parties hereto as follows :—

1. Lake Shore Mines, Limited, having by Resolution appointed The Trust Company Registrar in Toronto, of its Capital Preferred and Common Stock, The Trust Company accepts such appointment upon the terms hereinafter mentioned.

"H. O."  
 "M. S. L. R."  
 "R. P. J."

2. The Trust Company shall keep The Company's Register, or Registers subject to such general and particular instructions as may from time to time be given to it by or under the authority of the Directors of The Company.

30 3. The Trust Company shall not be responsible for any illegal Transfers of Stock, its duty being only to countersign Certificates or Discharge Warrants bearing the signature of such officers as the Directors of The Company may appoint, for which it cancels Certificates and Warrants for a like number of Shares.

4. The Trust Company agrees to faithfully carry out and perform its duties hereunder, and upon the termination hereof to deliver over to \_\_\_\_\_ of The Company the said books, and any documents and papers connected herewith or with the business of The Company transacted hereunder. And a receipt signed by the President

Exhibits.  
 7.  
 Agreement  
 between  
 Lake Shore  
 Mines Ltd.  
 and The  
 Royal Trust  
 Co., 21st  
 May, 1925  
 —continued.

or Vice-President, or Secretary of The Company, shall be a valid discharge to The Trust Company.

5. The Trust Company's fees for the above-mentioned services shall be as per schedule " A " attached which has been initialled for identification by the parties hereto.

6. The Company agrees to furnish The Trust Company with a certified statement shewing the number of shares of its stock now outstanding.

7. The foregoing Memorandum of Agreement shall be subject to revision at the end of any year or may be cancelled by either party on six 10 months' notice being given.

In Witness Whereof this Agreement has been duly executed by the parties hereto at \_\_\_\_\_, the day and year first above written.

Signed, Sealed and Executed in the presence of

(Sgd.) W. H. WRIGHT.  
 (Sgd.) D. E. CAMERON.

Compared with the Original and found to be a true copy thereof.

THE ROYAL TRUST COMPANY.

(Sgd.) A. GAUGH.  
 (Sgd.) C. B. MURRAY.

LAKE SHORE MINES, LIMITED.  
 (Sgd.) HARRY OAKES, *President.*  
 (Seal.)

THE ROYAL TRUST COMPANY.  
 (Sgd.) R. P. JELLETT,  
*Assistant General Manager.*

(Sgd.) M. S. L. RICHEY, 20  
*Secretary.*  
 (Seal.)

THE ROYAL TRUST COMPANY.

TRANSFER DEPARTMENT.

SCHEDULE OF CHARGES.

REGISTRARSHIP.

Minimum Charge..... \$250.00 per annum.

For registration of each certificate in  
 " MSLR " " RPJ "

excess of 1,000 per annum .....15c. 30

For each Co-Registrar in other Cities ..... \$125.00 per annum.

For posting out certificates on the close of a

Register or retiring of stock, for  
 each certificate..... .07½c.

Other Special Services by Appraisal.

NOTE.—The cost of all stationery such as Registers, Advice Sheets, etc., are to be added to the regular charges. All fees and charges to be paid quarterly and overdue accounts to bear interest at 6% per annum.

This is Schedule " A " attached to Memorandum of Agreement between 40  
 The Royal Trust Company and Lake Shore Mines, Limited—" H.O."

Dated 21st day of May, 1925.

" MSLR "  
 " RPJ "

**8. Resolution passed at a meeting of Directors of Lake Shore Mines Ltd.**

Exhibits.

I, G. F. DOGGETT, Secretary of Kirkland Securities Limited, which is Secretary of Lake Shore Mines Limited, Do Hereby Certify that the annexed is a true copy of a Resolution passed at a meeting of Directors of Lake Shore Mines Limited held at Kirkland Lake, Ontario, on May 18, 1927, the same having been compared by me with the original.

Dated this 3rd day of May, 1940.

G. F. DOGGETT.

8.  
Resolution  
passed at a  
meeting of  
Directors of  
Lake Shore  
Mines Ltd.,  
18th May,  
1927.

**LAKE SHORE MINES LIMITED**

(Seal.)

10

Moved by Mr. Martin, seconded by Mr. Wright, that the Company hereby designate and appoint Manufacturers and Traders Trust Company of Buffalo, New York, as an additional Registrar and Transfer Agent at which office shareholders may have their stock registered and transferred within the United States of America.

Carried.

**9. Correspondence between Lake Shore Mines Ltd. and Manufacturers & Traders Trust Co. with specimen copies of Share Certificates, &c.**

9.

(COPY.)

**LAKE SHORE MINES LIMITED.**

No Personal Liability.  
Kirkland Lake, Ontario.

20

Manufacturers & Traders—  
Peoples Trust Company,  
Buffalo, New York.

June  
Twenty-eight,  
1927.

Dear Sirs,

In further reference to your favour of the 6th of June, we hand you herewith duly executed certificate of Secretary of Lake Shore Mines, Ltd., together with copy of by-laws, specimen of stock certificate in use up to September, 1925, specimen of form " A " and form " B " of stock certificates now in use, which we trust will fully meet your requirements.

30

Correspon-  
dence  
between  
Lake Shore  
Mines Ltd.  
and Manu-  
facturers  
and Traders  
Trust Co.,  
with speci-  
men copies  
of Share  
Certificates  
&c.  
May-June,  
1927.

Exhibits.  
 9.  
 Correspondence  
 between  
 Lake Shore  
 Mines Ltd.  
 and Manu-  
 acturers  
 and Traders  
 Trust Co.,  
 with  
 specimen  
 copies of  
 Share  
 Certificates,  
 &c.  
 May-June,  
 1927—  
*continued.*

The matter of the certificates to be used by you as Transfer Agent for United States stock-holders is being taken up with the engravers, the Canadian Bank Note Company, Ltd., Toronto.

Yours very truly,  
 KIRKLAND SECURITIES, LTD.,  
 Secretary of LAKE SHORE MINES, LIMITED,  
 per G. OAKES.

GO/O  
 Encls.

“ Acknowledged.”

(COPY.)

Lake Shore Mines, Limited,  
 Kirkland Lake, Ontario.

June 6th, 1927. 10

Gentlemen :

This will acknowledge receipt of your letter of May 28th, 1927, enclosing certified copy of Resolution passed by your Board of Directors on May 18th, 1927, appointing this Bank as additional transfer agent and registrar for the stock of your Company transferable in the United States.

We very much appreciate this appointment. We will co-operate closely with your Canadian transfer agent and registrar and will attempt to give you entirely satisfactory service. 20

We enclose herewith form of certificate to be executed by your Secretary which will give us the additional information we require. We will, of course, also require a supply of stock certificates signed and sealed by the proper officers of the corporation.

The following is a schedule of fees which we charge in a matter of this kind, which we trust you will find entirely satisfactory :—

Annual charge covering the issuance of 100 certificates ... ..	\$150.00	
For issuance of additional certificates... ..	.25 each.	
For furnishing reports of daily transfers to Transfer agent, additional charge per annum per Agency ... ..	75.00	30
For each Canadian item posted, debit or credit...	.10	
For posting out certificates on the closing of the Transfer Agency or the retirement of stock per certificate ... ..	.10 each.	

This schedule of fees covers the making of four lists of stock-holders each year. For additional lists there will be an extra charge.

As Registrar.

For registering 200 certificates, \$100.00 per annum.

For registering each certificate in excess of 200, .10 each.

Exhibits.

9.

Correspondence between Lake Shore Mines Ltd. and Manufacturers and Traders Trust Co., with specimen copies of Share Certificates, &c. May-June, 1927—*continued.*

Very yours truly,

Trust Officer,  
Corporate Trust Department.

(COPY.)

10

LAKE SHORE MINES LIMITED.  
(No Personal Liability).  
Kirkland Lake, Ontario.

Manufacturers and Traders Trust  
Company of Buffalo,  
Buffalo,  
New York.

May  
Twenty-eight,  
1927.

Dear Sirs :

This is to advise you that at the meeting of the Board of Directors of Lake Shore Mines, Limited, held on the 18th of May, 1927, at 11.00 a.m., you were appointed as an additional Registrar and Transfer Agent of this Company for the convenience of shareholders within the United States.

We hand you herewith a certified copy of the Resolution passed at the above meeting.

The Transfer Agent in Toronto, The Trusts and Guarantee Company, Limited, have been notified of your appointment.

Will you kindly forward to us your form of agreement and schedule of charges for the above services.

30

Yours very truly,  
KIRKLAND SECURITIES, LTD.,  
*Secretary of LAKE SHORE MINES, LIMITED.*

per G. OAKES.

GO:O  
encl.

(COPY.)

LAKE SHORE MINES LIMITED.  
(No Personal Liability).  
Kirkland Lake, Ontario.

THIS IS TO CERTIFY that the following Resolution was duly passed at a meeting of the Board of Directors of Lake Shore Mines, Limited, held on the 18th day of May, 1927, a quorum being present, and that the Board

40



Exhibits.  
—  
9.  
Correspondence  
between  
Lake Shore  
Mines Ltd.  
and Manu-  
facturers  
and Traders  
Trust Co.,  
with  
specimen  
copies of  
Share  
Certificates,  
&c.  
May-June,  
1927—  
*continued.*

of Directors is authorized by the by-laws of the Company to pass such Resolution :—

“ That the Company hereby designate and appoint Manu-  
facturers and Traders Trust Company of Buffalo, New York, as an  
“ additional Registrar and Transfer Agent at which office shareholders  
“ may have their stock registered and transferred within the United  
“ States of America.”

Dated this 27th day of May, 1927.

KIRKLAND SECURITIES, LIMITED,  
*Secretary of LAKE SHORE MINES, LIMITED.* 10  
per G. OAKES.

(COPY.)

CERTIFICATE OF SECRETARY.

KIRKLAND SECURITIES, LTD., as Secretary of LAKE SHORE MINES, LIMITED, hereby certifies :

1. That said Lake Shore Mines, Limited, has an authorized stock of \$2,000,000.00, divided into 2,000,000 shares of the par value of \$1.00 each, of which 2,000,000 shares have been duly issued and are now outstanding.

2. That annexed hereto and identified by autographed signature 20 thereon is a true and complete copy of the By-laws of said Lake Shore Mines, Limited, now in force.

3. That annexed hereto and identified by autographed signature thereon is a specimen set of certificates of stock of said Lake Shore Mines, Limited, and of the only certificates of stock of said company.

4. That the following are the genuine signatures of all of the officers of said Lake Shore Mines, Limited, who are authorized to sign certificates of stock for and on behalf of said company.

“ HARRY OAKES,” “ J. E. ROBINSON,”  
*President of* *Agent of Secretary,* 30  
LAKE SHORE MINES, LIMITED. KIRKLAND SECURITIES, LTD.,  
of LAKE SHORE MINES, LIMITED.

5. That the only other Registrar of said Lake Shore Mines, Limited, is the Royal Trust Company, 59 Yonge Street, Toronto, Ontario, and the only other Transfer Agent of said Company is The Trusts and Guarantee Company, Limited, 302 Bay Street, Toronto, Ontario.

In Witness Whereof, the corporate seal of said company affixed this 28th day of June, 1927, and these presents have been executed by the aforementioned Secretary of said Lake Shore Mines, Limited, thereunto duly authorized.

KIRKLAND SECURITIES, LTD. 40  
*Secretary of LAKE SHORE MINES, LIMITED.*  
By “ HARRY OAKES,” *President*  
“ G. OAKES,” *Secretary.*

(Seal.,

Countersigned  
THE TRUSTS AND GUARANTEE COMPANY LIMITED, Toronto, Canada.  
Registrar and Transfer Agent.

SPECIMEN.

per.....Transfer Officer.

Authorised Capital, \$2,000,000.

Number 17989.

Shares.

Incorporated under the Ontario Companies Act, Part XI.

LAKE SHORE MINES, LIMITED.

Not subject to call.

No Personal Liability.

THIS CERTIFIES THAT.....SPECIMEN.....is the owner of  
.....fully paid Shares of the Capital Stock of LAKE SHORE  
MINES, LIMITED (No Personal Liability) transferable only on the Books of the  
Company in person or by Attorney on surrender of this Certificate.

This Certificate shall not become valid until countersigned by The Trusts and  
Guarantee Company Limited, Transfer Agent and Registrar.

(Seal). IN WITNESS WHEREOF the duly authorized officers of this Corpora-  
tion have hereunto subscribed their names and caused the Corporate  
Seal to be hereto affixed this .....day of.....  
A.D. 19.....

KIRKLAND SECURITIES LIMITED.

“ J. E. ROBINSON,” *Secretary.*

“ HARRY OAKES,” *President.*

Shares \$1.00 each.

Exhibits.  
—  
9.  
Correspond-  
ence  
between  
Lake Shore  
Mines Ltd.  
and Manu-  
facturers  
and Traders  
Trust Co.,  
with  
specimen  
copies of  
Share  
Certificates  
&c.  
May-June,  
1927—  
*continued.*

Exhibits.

9.

Correspondence between Lake Shore Mines Ltd. and Manufacturers and Traders Trust Co., with specimen copies of Share Certificates &c. May-June, 1927—  
*continued.*

COPY.

For Value received.....hereby sell, assign and transfer unto

.....  
.....

the shares of the Capital Stock represented by the within Certificate and do hereby irrevocably constitute and appoint.....

.....Attorney to transfer the said stock on the books of the within-named Company with full power of substitution in the premises.

Dated.....19

10

.....

In presence of

.....

Note :

The signature to this assignment must correspond with the name as written upon the face of the Certificate, in every particular, without alteration or enlargement or any change whatever.



Exhibits.

9.

Correspondence between Lake Shore Mines Ltd. and Manufacturers and Traders Trust Co., with specimen copies of Share Certificates &c. May-June 1927---  
*continued.*

COPY.

For value Received.....hereby sell, assign and transfer unto  
..... Shares  
of the Capital Stock represented by the within Certificate, and  
do hereby irrevocably constitute and appoint.....  
.....Attorney to  
transfer the said stock on the Books of the within-named  
Company with full power of substitution in the premises.

Dated.....19.....  
.....

In Presence of  
.....

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate in every particular, without alteration or enlargement, or any change whatever.



Exhibits.

9.

Correspondence between Lake Shore Mines Ltd. and Manufacturers and Traders Trust Co., with specimen copies of Share Certificates &c. May-June, 1927—*continued.*

COPY.

For value Received.....hereby sell, assign and transfer unto ..... Shares of the Capital Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint..... Attorney to..... transfer the said stock on the Books of the within-named Company with full power of substitution in the premises.

Dated.....19.....

In Presence of

.....

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate in every particular, without alteration or enlargement, or any change whatever.

Countersigned, THE TRUSTS AND GUARANTEE COMPANY, LIMITED,  
Toronto, Canada.

Registrar and Transfer Agent  
per S. A. SMYTH.

Authorized Capital \$2,000,000.

Number  
797

Shares  
1000

(Crest)

LAKE SHORE MINES, LIMITED.

Incorporated under the Ontario Companies Act, Part XI.

Not Subject to Call.

No Personal Liability.

CANCELLED May 2nd, 1940. MFGRS. AND  
TRADERS TRUST COMPANY. STOCK  
TRANSFER DEPARTMENT.

THIS CERTIFIES THAT ..... A. D. WILLIAMS ..... is the owner of .....ONE THOUSAND ..... fully paid shares of the Capital Stock of LAKE SHORE MINES, LIMITED. No personal liability transferable only on the Books of the Company in person or by Attorney on surrender of this Certificate.

This Certificate shall not become valid until countersigned by The Trusts and Guarantee Company Limited, Transfer Agent and Registrar.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have hereunto subscribed their names and caused the Corporate Seal to be hereto affixed this 31st day of October, A.D. 1917.

J. W. MORRISON, *Secretary.*

HARRY OAKES, *President.*

Shares \$1.00 each.

10.  
Capital  
Stock  
Certificate  
No. 797  
Lake Shore  
Mines Ltd.,  
for 1,000  
Shares  
issued to  
the late  
A. D.  
Williams.  
31st Octo-  
ber, 1917.

10. Capital Stock Certificate No. 797 Lake Shore Mines Ltd. for 1,000 shares  
issued to the late A. D. Williams.

Exhibits.



Exhibits.

10.  
Capital  
Stock  
Certificate  
No. 797  
Lake Shore  
Mines Ltd.  
for 1,000  
Shares  
issued to  
the late  
A. D.  
Williams  
31st  
October,  
1917—  
*continued.*

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate in every particular without alteration, or enlargement or any change whatever.

CERTIFICATE  
No.                    for  
                      SHARES  
                      of the  
CAPITAL STOCK  
                      of  
LAKE SHORE MINES  
                      LIMITED  
No Personal Liability.  
Issued to  
.....  
Dated .....

FOR VALUE RECEIVED.....hereby sell, assign and transfer unto ..... STOCK POWER ATTACHED ..... TO CERTIFICATE NO. BA 1229 .....shares of the Capital Stock named in the within Certificate, and..... do hereby constitute and appoint ..... true and lawful attorney, irrevocable, for .....and in .....name and stead, but to..... use, to sell, assign, transfer and set over all or any part of the said stock, and for that purpose to make and execute all necessary acts of assignment and transfer, and one or more 10 persons to substitute with like full power.

A. D. WILLIAMS.

Dated December 14th, 1925.

Signed and acknowledged in the presence of

FLORENCE K. NEUER.

Commission expires 3/30/27.

11. Record of transfer of shares of Lake Shore Mines Ltd.

Exhibits.

Form No. 213.6

IP  
4 THE  
TRUSTS AND GUARANTEE  
COMPANY LIMITED  
TORONTO

We, the undersigned owners and holders of Shares in the Capital Stock of (THE UNDERMENTIONED COMPANY) for value received do hereby by our respective attorneys duly appointed, respectively assign such Shares of said Capital Stock as in the manner hereunder set forth; subject to the Act of Incorporation of the Company and its By-Laws, Rules and Regulations.

11.  
Record of  
transfer of  
shares of  
Lake Shore  
Mines Ltd.

Name of Company : LAKE SHORE MINES LIMITED (Copy)

10 " M. Bechill " Attorney : Date April 4/40. : Sheet No. 1256 " C.B."

Certificates Surrendered	Certificate Numbers	Shares	Certificates Issued	Certificate Numbers	Shares
C. J. Hodgson & Co.	A97521	5			
Jay L. Francis and Co.	A97422	10	Matthews & Company Ten Matthews & Company Five 80 King St. W., Toronto, Ontario.	A97626 A97627	10 5
Roycan & Co.	A77496 A77494 A77495	5 25 25	Gunther & Co. Fifty Gunther & Co. Twenty c/o the Swiss Bank Corporation, 15 Nassau St., New York, N.Y.	A97628 A97629	50 20
Roycan & Co.	A87592	40	Gunther & Co. Twenty Gunther & Co. Five	A97630 A97631	20 5
A. L. Stamm & Co.	BA32781	50	Mead Yates & Osler Fifty 275 St. James St. W., Montreal, Que.	A97632	50
G. Harry Walker	A57741	10			
Fred W. Daly	A96866	10			
30 F. O'Hearn & Co.	A97503	5			
C. J. Hodgson & Co.	A97517 A97516	25 25			
Flood & Co.	A97525	25	Campbell A. Seagram 8 King St. S., Waterloo, Ont.	B38424	100
Potter & Co.	A96878 A97469	5 5	P. N. Kemp-Gee & Co. Thirty 20 Cophall Ave., London, E.C.2, England.	A97633	30
40 J. P. Cannon & Co.	A97547	25	Arthur M. Edwards Five 6 Wellington N., Sherbrooke, Que.	A97634	5
	TOTAL	295		TOTAL	295

" W.A. "

CERTIFIED COPY.

THE TRUSTS AND GUARANTEE COMPANY LIMITED  
S. A. SMYTH, Transfer Officer.

Apr. 30/40.





A. D. WILLIAMS.

2978 Main Street, Buffalo, N.Y.

Particulars.	Date.	Folio.	Cert. No. (Cancelled).	Cert. No. Issued.	SHARES.		C.K.	Balance.
					Dr. (Sales).	Cr. (Pur- chases).		
	1917.							14,000
				721		1,000		
				722		1,000		
				723		1,000		
				724		1,000		
				725		1,000		
				726		1,000		
				727		1,000		21,000
	Oct. 31	22		792		390		
				793		610		
				794		1,000		
				795		1,000		
				796		1,000		
				797		1,000		
				798		1,000		
				799		1,000		
				800		1,000		
				801		1,000		
	Nov. 9	24	798/9		2,000			28,000

A. D. WILLIAMS.

2978 Main Street, Buffalo, N.Y.

Particulars.	Date	Folio.	Cert. No. (Cancelled).	Cert. No. Issued.	SHARES.			
					Dr. (Sales).	Cr. (Pur- chases).	C.K. Balance.	
							28,000	
	1917.							
	Nov. 9	24		880		500		
				881		500		
				882		500		
				883		500		30,000
	1918.							
	Feb. 1	26	719/21		3,000			27,000
			795/6		2,000			25,000
	April 29	31	883		500			24,500
	May 13	33	793		610			
			792		390			23,500
			722/24		3,000			20,500
	Oct. 23/8	45	794		1,000			19,500
			725/27		3,000			16,500
			622/24		3,000			13,500
	Feb. 5	54		1,962		769		14,269
	Nov. 8	92	619		1,000			13,269
	Nov. 8	93	882		500			12,769
	July 20/20	112	612/3		1,000			11,769
	Dec. 12	521	881		500			11,269
			1,962		769			10,500

115

Exhibits.  
—  
13.  
Ledger  
account of  
A. D.  
Williams—  
continued.

A. D. WILLIAMS.

2978 Main Street, Buffalo, N.Y.

Particu'ars.	Date.	Folio.	Cert. No. (Cancelled).	Cert. No. Issued.	SHARES.		C.K.	Balance.
					Dr. (Sales).	Cr. (Pur- chases).		
								10,500
	Dec. 15	521	880		500			10,000
	Feb. 29/32	L179		BA 1229				100
				BA 1230				100
								10,200

Countersigned and Registered—Feb. 29, 1932.

M & T TRUST COMPANY,  
formerly MANUFACTURERS & TRADERS PEOPLES TRUST COMPANY  
(BUFFALO, N.Y.).

Registrar and Transfer Agent. .... Trust Officer.

Number  
BA 1230

Shares  
100

LAKE SHORE MINES, LIMITED.

Authorized Capital \$2,000,000.

Not subject to call.

No personal liability.

Incorporated under The Ontario Companies Act, Part XI.

CANCELLED May 2nd, 1940. MFGRS. AND  
TRADERS TRUST COMPANY.  
STOCK TRANSFER DEPARTMENT.

THIS CERTIFIES THAT ..... ALEXANDER DUNCAN WILLIAMS.....  
is the owner of ..... EXACTLY 100 SHARES ..... fully paid and non-assessable  
shares of the par value of One Dollar each of the Capital Stock of LAKE SHORE  
MINES, LIMITED, transferable only on the books of the Company in person or  
by attorney upon surrender of this Certificate properly endorsed. This Certificate  
is not valid until countersigned and registered by the Registrar and Transfer  
Agent.

IN WITNESS WHEREOF the said Company has caused this Certificate to be  
signed by its duly authorized officers and to be sealed with the Seal of the Company  
this February 29, 1932.

This Certificate may be transferred at Toronto or Buffalo.

KIRKLAND SECURITIES, LIMITED, *Secretary.*

Per.....

HARRY OAKES, *President.*

Incorporated 1914.

Shares \$1.00 Each.

14.  
Certificate  
No. BA1230  
Lake Shore  
Mines Ltd.

14. Certificate No. BA1230, Lake Shore Mines Ltd.



Exhibits.

14.

Certificate  
No. BA1230  
Lake Shore  
Mines Ltd.  
—continued

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate, in every particular, without alteration or enlargement, or any change whatever.

ENDORSEMENT.

For value Received.....hereby sell, assign and transfer unto.....

STOCK POWER ATTACHED  
TO CERTIFICATE No.  
BA 1229

..... Shares  
of the Capital Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint.....  
..... Attorney  
to transfer the said stock on the Books of the within-named Company with full power of substitution in the premises.

Dated.....19.....

ALEXANDER DUNCAN WILLIAMS.

In presence of

.....

**15. (1) Pink Sheet used for recording transactions of Shareholders with  
Manufacturers and Traders Trust Co.**

Exhibits.

15. (1).  
Pink Sheet  
used for  
recording  
transactions  
of Share-  
holders  
with  
Manu-  
facturers  
and  
Traders  
Trust  
Co.

Manufacturers and Traders Trust Company, Name  
as Transfer Agent for :  
LAKE SHORE MINES LTD.

BUFFALO CAPITAL. Address

Date.	Doc. No.	Number Ctf. Surren.	Number Ctf. Issued.	Shares Cancelled.	Shares Issued.	Balance Shares.

10

**15. (2) White Sheet used for same purpose.**

15. (2).  
White  
Sheet used  
for same  
purpose.

Manufacturers and Traders Trust Company, Name  
as Transfer Agent for :  
LAKE SHORE MINES LTD.

TORONTO CAPITAL. Address

Date.	Doc. No.	Number Ctf. Surren.	Number Ctf. Issued.	Dr. Shares.	Cr. Shares.	Balance Shares.

Exhibits.

16. Copy of Registry of Capital Stock of Lake Shore Mines Ltd.

16.  
Copy of  
Registry of  
Capital  
Stock of  
Lake Shore  
Mines Ltd.

Date.	Certificates Cancelled.				Certificates Issued.	
	Number.	Shares.	Number.	Shares.	Number.	Shares.
1940.						
27th Apr.	A97744	25			A97847	25
	A50138	12			8	10
	A97821	25			9	2
	A97352	5			50	50
	A97489	10			1	50
	A67366	10			B38472	100
	A50133	50			3	100
	BA8596	100				
	B38463	100				
			337			337
29th Apr.	A07829	50			A97852	50
	A97645	2			3	2
	A97365	25			4	20
					5	5
			77			77
30th Apr.	A97559	10			A97856	50
	A97811	5			7/9	150 3×50 20
	A96403	15			60	25
	A97453	10			1	10
	A97564	5			2	25
	A96452	5			3/4	2 2×1
	A97827	75			5	20
	B38471	100			B38474	100
	A97676	10				
	A58776	10				
	A97840	10				
	A97588	5				
	A97734	2				
	A97812	20				
	B36063	100				
		382			382	

Date.	Certificates Cancelled.				Certificates Issued.		Exhibits. 16. Copy of Registry of Capital Stock of Lake Shore Mines Ltd. —con- inued.
	1940.	Number.	Shares.	Number.	Shares.	Number.	
1st May	A74335	25			B38475	100	
	A86381	25			A97866	25	
	A81800	75			7	10	
	A92881	10			8	40	
	A44242	50			9	10	
	B24551/2	200			B38476/7	200 2×100	
	A56426	10			A97870	10	
	A56254	50			1	25	
					2	15	
					3	10	
		445				445	

Compared with the Original  
and found to be a true copy thereof.

THE ROYAL TRUST CO.

per :

A. C. CALLOW  
H. D. BLACK  
4th May, 1940.

Exhibits. **17. (A) Memorandum as to Stock Certificates in the name of A. D. Williams for 1,000 shares and one for 100 shares.**

17 (A).  
Memorandum as to Stock Certificates in name of A. D. Williams for 1,000 shares and one for 100 shares.

**EXHIBIT NUMBER 17A** consisted of the original stock certificates of the Lake Shore Mines, Limited, in the name of Alexander Duncan Williams and A. D. Williams as follows:—

614	...	...	...	...	...	1000 shares
615	...	...	...	...	...	1000 shares
616	...	...	...	...	...	1000 shares
617	...	...	...	...	...	1000 shares
618	...	...	...	...	...	1000 shares
620	...	...	...	...	...	1000 shares
621	...	...	...	...	...	1000 shares
797	...	...	...	...	...	1000 shares
800	...	...	...	...	...	1000 shares
801	...	...	...	...	...	1000 shares
BA 1229	...	...	...	...	...	100 shares
BA 1230	...	...	...	...	...	100 shares

10

It is admitted that all these share certificates are impressed with the Seal of the Company, that Certificate BA 1229 is identical with Certificate BA 1230 (Exhibit 14), and that all the other certificates above listed 20 are identical with Certificate 797 (Exhibit 10).

“ L. R. MAC TAVISH,”  
*Solicitor for the Appellant.*



Countersigned and Registered: May 2, 1940.  
MANUFACTURERS AND TRADERS TRUST COMPANY (BUFFALO, N.Y.).  
Registrar and Transfer Agent.  
By.....*Asst. Secretary.*

Number  
BA 33437

Shares  
200

LAKE SHORE MINES, LIMITED.

Authorized Capital \$2,000,000.

Not Subject to Call.

No Personal Liability.

Incorporated under The Ontario Companies Act, Part XI.

THIS CERTIFIES THAT EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS Executors of A. D. Williams Estate is the owner of EXACTLY 200 SHARES fully paid and non-assessable shares of the par value of One Dollar each of the Capital Stock of Lake Shore Mines, Limited, transferable only on the books of the Company in person or by attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned and registered by the Registrar and Transfer Agent.

IN WITNESS WHEREOF the said Company has caused this certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Company this May 2, 1940.

This Certificate may be transferred at Toronto or Buffalo.

Incorporated  
1914

KIRKLAND SECURITIES LIMITED *Secretary.*

" J. E. ROBINSON."

" W. P. ST. CHARLES,"  
*President.*

Shares \$1.00 Each.

Exhibits.  
17 (B).  
Copies of  
Certificates  
in names of  
Eva May  
Williams  
and  
Reginald  
Victor  
Williams  
for 200  
shares each,  
and one for  
5,000  
shares in  
Lake Shore  
Mines Ltd.

17. (B) Copies of Certificates in names of Eva May Williams and Reginald Victor Williams for 200 shares each and one for 5,000 shares in Lake Shore Mines Ltd.

Exhibits.

17 (B).  
Copies of  
Certificates  
in names of  
Eva May  
Williams  
and  
Reginald  
Victor  
Williams  
for 200  
shares each,  
and one for  
5,000  
shares in  
Lake Shore  
Mines Ltd.  
—continued.

ENDORSEMENT.

For value received ..... hereby sell, assign and transfer unto

.....

Please Print or Typewrite name and address of assignee.

.....

.....

..... shares

of the Capital Stock represented by the within Certificate, and  
do hereby irrevocably constitute and appoint.....

..... Attorney

to transfer the said stock on the Books of the within-named  
Company with full power of substitution in the premises.

Dated.....19.....

.....

In Presence of

.....

.....

Printed in Canada.

THIS SPACE MUST NOT BE COVERED IN ANY WAY.

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate, in every particular, without alteration or enlargement, or any change whatever.

Countersigned and Registered: May 2 1940.

MANUFACTURERS AND TRADERS TRUST COMPANY (BUFFALO, N.Y.).

Registrar and Transfer Agent.

By ..... Asst. Secretary.

Number  
BA 33438

Shares  
5000

LAKE SHORE MINES, LIMITED.

Authorized Capital \$2,000,000.

Not Subject to Call.

No Personal Liability.

Incorporated under The Ontario Companies Act Part XI.

THIS CERTIFIES THAT EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS EXECUTORS of A. D. WILLIAMS ESTATE is the owner of EXACTLY 5000 SHARES fully paid and non-assessable shares of the par value of One Dollar each of the Capital Stock of Lake Shore Mines, Limited, transferable only on the books of the Company in person or by attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned and registered by the Registrar and Transfer Agent.

IN WITNESS WHEREOF the said Company has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Company this May 2, 1940.

This Certificate may be transferred at Toronto or Buffalo.

Incorporated  
1914

KIRKLAND SECURITIES LIMITED *Secretary.*

“ J. E. ROBINSON.”

“ W. P. ST. CHARLES,”  
*President*

Shares \$1.00 Each.

Exhibits.  
17 (B).  
Copies of  
Certificates  
in names of  
Eva May  
Williams  
and  
Reginald  
Victor  
Williams  
for 200  
shares each,  
and one for  
5,000  
shares in  
Lake Shore  
Mines Ltd.  
— continued.



Exhibits.

17 (B).  
Copies of  
Certificates  
in names of  
Eva May  
Williams  
and  
Reginald  
Victor  
Williams  
for 200  
shares each,  
and one for  
5,000  
shares in  
Lake Shore  
Mines Ltd.

—continued.

ENDORSEMENT.

For value received ..... hereby sell, assign and transfer unto

.....

Please Print or Typewrite name and address of assignee.

.....

.....

..... shares

of the Capital Stock represented by the within Certificate, and  
do hereby irrevocably constitute and appoint.....

..... Attorney

to transfer the said stock on the Books of the within-named  
Company with full power of substitution in the premises.

Dated.....19.....

.....

In Presence of

.....

.....

Printed in Canada.

THIS SPACE MUST NOT BE COVERED IN ANY WAY.

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate, in every particular, without alteration or enlargement, or any change whatever.

Countersigned and Registered : May 2, 1940.

MANUFACTURERS AND TRADERS TRUST COMPANY (BUFFALO, N.Y.).

Registrar and Transfer Agent.

By.....Asst. Secretary.

Number  
BA 33439

Shares  
5000

LAKE SHORE MINES, LIMITED.

Authorized Capital \$2,000,000.

Not Subject to Call.

No Personal Liability.

Incorporated under The Ontario Companies Act Part XI.

THIS CERTIFIES THAT EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS Executors of A. D. WILLIAMS ESTATE is the owner of EXACTLY 5000 SHARES fully paid and non-assessable shares of the par value of One Dollar each of the Capital Stock of Lake Shore Mines, Limited, transferable only on the books of the Company in person or by attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned and registered by the Registrar and Transfer Agent.

IN WITNESS WHEREOF the said Company has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Company this May 2, 1940.

This Certificate may be transferred at Toronto or Buffalo.

Incorporated  
1914

KIRKLAND SECURITIES LIMITED, *Secretary.*

“ J. E. ROBINSON.”

“ W. P. ST. CHARLES,”  
*President.*

Shares \$1.00 Each.

Exhibits.  
—  
17 (B).  
Copies of  
Certificates  
in names of  
Eva May  
Williams  
and  
Reginald  
Victor  
Williams  
for 200  
shares each,  
and one for  
5,000  
shares in  
Lake Shore  
Mines Ltd.  
—continued.

Exhibits.

17 (B).  
Copies of  
in names of  
Eva May  
Williams  
and  
Reginald  
Victor  
Williams  
for 200  
shares each,  
and one for  
5,000  
shares in  
Lake Shore  
Mines Ltd.  
—continued.

ENDORSEMENT.

For value received ..... hereby sell, assign and transfer unto

.....  
Please Print or Typewrite name and address of assignee.

.....  
..... shares  
of the Capital Stock represented by the within Certificate, and  
do hereby irrevocably constitute and appoint.....

..... Attorney  
to transfer the said stock on the Books of the within named  
Company with full power of substitution in the premises.

Dated.....19.....

In Presence of

.....

Printed in Canada.

THIS SPACE MUST NOT BE COVERED IN ANY WAY.

NOTICE.—The signature to this assignment must correspond with the name as written upon the face of the Certificate, in every particular, without alteration or enlargement, or any change whatever.

Letter and Consent re Exhibits 17 (A) and (B).

Exhibits.

White, Ruel & Bristol,  
Barristers, Solicitors, Etc.

Imperial Bank Building,  
King and Bay Streets,  
Toronto 2, Canada.

Letter and  
Consent re  
Exhibits  
17(A) and  
17(B).

4th November, 1940.

10 The Registrar,  
The Court of Appeal of Ontario,  
Osgoode Hall,  
Toronto.

Dear Sir,

Re WILLIAMS v. THE KING.

As requested by you, we enclose herewith Consent signed by Mr. Peter White, K.C., and Mr. D. L. McCarthy, K.C., Counsel for the Suppliants and the Respondent respectively, to the original stock certificates in the name of the late A. D. Williams and photostatic copies of the 3 certificates in the names of the Executors being filed as Exhibits 17 (A) and 17 (B) as though put in at the trial. We enclose photostatic copies of Certificates  
20 BA33437-8 and 9, being the 3 certificates issued and dated May 2nd 1940 to Eva May Williams and Reginald Victor Williams, Executors of the A. D. Williams Estate, totalling 10,200 shares.

Yours very truly,

Enc.

“ WHITE RUEL & BRISTOL.”

IN THE COURT OF APPEAL FOR ONTARIO.

Between

EVA MAY WILLIAMS and REGINALD VICTOR WILLIAMS,  
Executors of the Will of ALEXANDER DUNCAN WILLIAMS,  
deceased ... .. *Suppliants,*

30

and

HIS MAJESTY THE KING, as represented by the ATTORNEY  
GENERAL FOR ONTARIO ... .. *Respondent.*

WE HEREBY CONSENT to the undermentioned being filed as Exhibits 17 (A) and 17 (B) herein as though put in at the trial :—

- 17 (A) Original stock certificates in name of A. D. Williams, being Nos. 614-5-6-7-8, 620-1, 800-1, each for 1,000 shares of Lake Shore Mines Limited and No. BA1229 for 100 shares, the latter

Exhibits.

Letter and  
consent *re*  
Exhibits  
17(A) and  
17(B)—  
*continued.*

having stock transfer form and other documents attached relating to the transfer of these shares to the names of the Executors of the late A. D. Williams.

- 17 (B) Photostatic copies of Certificate No. BA3347 for 200 shares and BA3348-9 each for 5,000 shares in Lake Shore Mines Limited in name of Eva May Williams and Reginald Victor Williams, Executors of A. D. Williams Estate.

Dated the 2nd day of November, 1940.

“ PETER WHITE,”  
*of Counsel for the Suppliants.* 10

“ D. L. McCARTHY,”  
*of Counsel for the Respondent.*

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**APPENDIX OF STATUTES RELATING TO THE INCORPORATION OF  
COMPANIES IN ONTARIO.**

Appendix.

STATUTES OF UPPER CANADA.

7 Wm. IV (1837) c. 14.

Statutes  
relating to  
the incor-  
poration of  
companies  
in Ontario.

1. In the year 1837 was passed the first general Ontario Companies  
Clauses enactment (Statutes of Upper Canada 7 William IV First Session  
cap. 14 sections 14 to 20) providing that wherever by a Special Act hereafter  
to be passed a corporation should be created, among other things, for carry-  
ing, of suing and being sued and of acquiring and dealing with real and  
personal property; and that its directors should have power to make rules  
and regulations "touching the management and disposition of stock,  
"property, estate and effects of the corporation and touching the duty and  
"conduct of officers, clerks and servants employed by the said Company and  
"all such matters appertaining to the business of the said Company."

STATUTES OF CANADA.

13-14 Vic. (1850) c. 28.

II. In 1850 was passed the first Act to provide for the incorporation  
of Joint Stock Companies other than by Special Act, being Statutes of  
Canada 13 and 14 Victoria cap. 28, the relevant parts of which are as  
follows :—

“ WHEREAS it is expedient to make provision for the Registration  
“ of Joint Stock Companies during the formation thereof, and also after  
“ such registration to invest such Joint Stock Companies with some of the  
“ qualities and incidents of Corporations, subject to certain conditions  
“ and regulations : Be it therefore enacted by the Queen’s Most Excellent  
“ Majesty, by and with the advice and consent of the Legislative Council  
“ and of the Legislative Assembly of the Province of Canada, constituted  
“ and assembled by virtue of and under the authority of an Act passed  
“ in the Parliament of the United Kingdom of Great Britain and Ireland,  
“ intituled, *An Act to re-unite the Provinces of Upper and Lower Canada,*  
“ *and for the Government of Canada,* and it is hereby enacted by the  
“ authority of the same, That any five or more persons who may desire  
“ to form a Company for the purpose of carrying on any kind of Manu-  
“ facturing, Ship Building, Mining, Mechanical or Chemical Business,  
“ may make and sign a statement or declaration in writing, in which  
“ shall be set forth the Corporate name of the said Company, and the  
“ object or objects for which the same shall be formed, the amount of the  
“ Capital Stock of the said Company, the term of its proposed existence,  
“ (which shall not exceed fifty years) the number of shares of which the  
“ said stock shall consist, the number and names of the Trustees who shall  
“ manage the concerns of the said Company for the first year, and the

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“ names of the City, Town or Village, Parish, Township or Extra-  
 “ parochial Place and County in which the operations of the said Company  
 “ are to be carried on, and shall acknowledge such statement or declaration  
 “ in duplicate before the Registrar or Register of such County or his  
 “ Deputy, who are hereby authorized to receive such acknowledgment  
 “ and grant a certificate thereof ; and one of the duplicates of every such  
 “ statement or declaration shall be filed by such Registrar or Register,  
 “ or his Deputy, and an entry thereof shall be made by him in a book  
 “ to be kept for that purpose, and the other of the said duplicates, with  
 “ a proper certificate of the acknowledgment, filing and registration 10  
 “ thereof as aforesaid endorsed thereon, shall forthwith be transmitted  
 “ to and filed in the Office of the Secretary of this Province.

“ III. And be it enacted, That when the formalities prescribed in  
 “ the foregoing section of this Act shall have been complied with, the  
 “ persons who shall have signed the said statement or declaration, and  
 “ their successors, shall be a body politic and corporate in fact and in  
 “ name by the name mentioned in such statement or declaration ; and  
 “ by that name shall have succession, and shall be capable of suing and  
 “ being sued in any Court of Law or Equity in this Province, and may  
 “ have a Common Seal, and may from time to time break, alter and make 20  
 “ new the same at pleasure ; and they shall by their said Corporate name  
 “ be able and capable in law to purchase, hold and convey any real and  
 “ personal estate, or moveable and immoveable property whatsoever  
 “ which may be necessary to enable the said Company to carry on the  
 “ operations mentioned in such statement or declaration, but shall not  
 “ mortgage the same nor give any lien thereon.

“ IV. And be it enacted, That the stock, property and concern of  
 “ every such Company as aforesaid, shall be managed by not less than  
 “ three or more than nine Trustees, who shall respectively be Stockholders  
 “ in such Company, and subjects of Her Majesty, either by birth or 30  
 “ naturalization, and who shall, except the first year, be annually elected  
 “ by the Stockholders at such time and place as shall be directed by the  
 “ By-laws of the Company ; and notice of the time and place of holding  
 “ such election shall be published not less than ten days previous thereto,  
 “ in the newspaper printed nearest to the place where the operations of  
 “ the said Company shall be carried on ; and the election shall be made  
 “ by such of the Stockholders as shall attend for that purpose either  
 “ in person or by proxy.

“ IX. And be it enacted, That the Trustees of every such Company  
 “ as aforesaid shall have power to make such By-laws as they shall deem 40  
 “ proper for the management and disposition of the stock and business  
 “ affairs of such Company for the appointment of officers and for prescrib-  
 “ ing their duties and those of all artificers and servants that may be  
 “ employed, and for carrying on all kinds of business within the objects  
 “ and purposes of such Company ; and any copy of the said By-laws or any  
 “ of them purporting to be under the hand of the Clerk, Secretary or  
 “ other officer of the said Company and having the Corporate Seal of such

“ Company affixed to it, shall be received as *primâ facie* evidence of such By-law or By-laws in all Courts of Law or Equity in this Province.

Appendix.

“ X. And be it enacted, That the Stock of every such Company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the By-laws of the Company ; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for the non-payment of calls thereon ; and it shall not be lawful for any such Company to use any of its funds in the purchase of any stock in any other Corporation.

Statutes relating to the incorporation of companies in Ontario —continued.

“ XI. And be it enacted, That all the Stockholders of any Company that shall be incorporated under this Act shall be jointly and severally liable for all debts and contracts made by such Company, until the whole amount of the capital stock of such Company, fixed and limited in manner aforesaid, shall have been paid in, and a certificate to that effect shall have been made and registered as prescribed in the next section of this Act, after which no Stockholder of such Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by such Company, beyond the amount of his share or shares in the capital stock of such Company so fixed and limited and paid in as aforesaid, save and except as hereinafter mentioned :

“ XX. And be it enacted, That it shall be the duty of the Trustees of every such Company to cause a book to be kept by the Treasurer or Clerk thereof containing in alphabetical order the names of all persons who are or have been Stockholders of such Company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares ; and also a statement of all the existing debts and liabilities of such Company, and of the amount of its stock actually paid in ; which books shall, during the usual business hours of the day, on every day except Sundays and obligatory holidays (*fêtes d'obligation*) be open for the inspection of Stockholders and Creditors of the Company and their personal representatives, at the office or principal place of business of such Company, in the County where the operations of such Company are carried on as aforesaid : and any and every such Stockholder, Creditor or Representative, shall have a right to make extracts from such book ; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the Company according to the provisions of this Act, until it shall have been entered therein as required by this section by an entry showing to and from whom such stock shall have been transferred.

“ XXI. And be it enacted, That such book shall be *primâ facie* evidence of the facts therein stated in favour of the Plaintiff in any suit or proceeding against such Company or against any one or more Stock-



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“ holders ; and that every Officer or Agent of any such Company who  
 “ shall refuse or neglect to make any proper entry in such book, or to  
 “ exhibit the same or allow the same to be inspected, and extracts to be  
 “ taken therefrom as aforesaid, shall be guilty of a misdemeanour, and  
 “ being convicted thereof shall be punished accordingly ; and every  
 “ Company that shall neglect to keep such book open for inspection as  
 “ aforesaid, shall forfeit the corporate rights, character and privileges  
 “ acquired by it in pursuance of this Act.”

## CONSOLIDATED STATUTES OF CANADA.

1859, c. 63.

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III. The foregoing Statute of 1850 was revised and re-arranged in Chapter 63 of The Consolidated Statutes of Canada (1859), of which the following are the relevant sections :—

1. Any five or more persons who desire to form a Company for carrying on any kind of Manufacturing, Ship-building, Mining, Mechanical or Chemical business, or for the erection of any building or buildings to be used in whole or in part for a Mechanics' Institute, or for a Public Reading or Lecture Room, or for Agricultural or Horticultural Fairs or Exhibitions, or for Educational, Library, or Religious purposes, or for a Public Hotel or for Baths and Bath-houses, or for the opening and using of Salt or Mineral Springs, or for carrying on any Fishery or Fisheries in this Province or in the Gulf of St. Lawrence, and for the building and equipping of any vessels required for such fishery or fisheries, may make and sign a settlement or declaration in writing, in which shall be set forth : 20  
 13, 14 V. c. 28, s. 1, — 16 V. c. 172, s. 1, — 22 V. c. 90, s. 1, (1858.)—  
 22 V. c. 22, (1859.)

1. The Corporate name of the Company ;
2. The object for which the same is formed ;
3. The amount of capital stock of the Company being, in the case of Fishing Companies, not less than forty thousand dollars ; 30  
 13, 14 V. c. 28, s. 1 — 22 V. c. 90, s. 1.
4. The number of shares of which the stock is to consist ;
5. The annual instalments of the capital stock to be paid in ; and
6. The number and names of the Trustees who are to manage the concerns of the Company for the first year ;
7. The names of the City, Town or Village, Parish, Township or Place and District or County in which the operations of the Company are to be carried on ;
8. The term of the Company's proposed existence which shall not exceed fifty years. 16 V. c. 172, s. 1, — 13, 14 V. c. 28, s. 1. 40
9. The Stock, property and concerns of every Company incorporated under this Act, shall be managed by not less than three nor more than nine Trustees, who shall respectively be Stockholders in the Company. 13, 14 V. c. 28, s. 4.

19. The Trustees of any Company incorporated under this Act, may make such By-laws as they deem proper: 13, 14 V. c. 28, s. 9,—  
19, 20 V. c. 12, s. 6.

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1. For the management and disposition of the Stock business and affairs of the Company; 13, 14 V. c. 28, s. 9.
2. For the appointment of Officers and prescribing their duties and the duties of all artificers and Servants who may be, employed by, and for carrying on all kinds of business within the objects and purposes of the Company;
- 10 3. For appointing the number of Trustees of the Company who are not to exceed nine, nor be less than three; 19, 20 V. c. 12, s. 6, No. 1.
4. For the payment of Trustees with the consent of a majority of the Stockholders at the annual meeting, or for the appointment of one or more paid Trustees; 19, 20 V. c. 12, s. 6, No. 2.
5. For the amending, altering, or repealing any By-law of the Company. 19, 20 V. c. 12, s. 6, No. 3.

20 23. The Trustees of every Company shall cause a book to be kept by the Treasurer or Clerk thereof, containing, in alphabetical order, the names of all persons, who are or have been Stockholders of the Company, and shewing:

1. Their places of residence;
2. The number of shares of stock held by them respectively;
3. The time when they respectively became the owners of the shares; and
4. A statement of all the existing debts and liabilities of the Company, and of the amount of its stock actually paid in. 13, 14 V. c. 28, s. 20.

30 24. Such books shall, during the usual business hours of the day, on every day, except Sundays and obligatory holidays (*fêtes d'obligations*) be open for the inspection of Stockholders and Creditors of the Company, and their personal Representatives, at the office or principal place of business of the Company—in the district or county where the operations of the Company are carried on. 13, 14 V. c. 28, s. 20.

40 25. Every Stockholder, Creditor or Representative may make extracts from such book, and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it is transferred liable for the debts of the Company, until an entry thereof has been made as required by the twenty-third section of this Act, and shewing to and from whom such stock has been transferred. 13, 14 V. c. 28, s. 20.

26. Such book shall be *primâ facie* evidence of the facts therein stated in favour of the Plaintiff in any suit or proceeding against the Company or against any one or more Stockholders. 13, 14 V. c. 28, s. 21.

27. Every Officer or Agent of any Company who refuses or neglects to make a proper entry in such book, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, shall be

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guilty of a misdemeanour, and being convicted thereof shall be punished accordingly. 13, 14 V. c. 28, s. 21.

28. Every Company that neglects to keep such book open for inspection as aforesaid, shall forfeit the corporate rights, character and privileges acquired in pursuance of this Act. 13, 14 V. c. 28, s. 21.

29. The stock of every Company shall be deemed personal estate, and shall be assignable and transferable in such manner as shall be prescribed by the By-laws of the Company. 13, 14 V. c. 28, s. 10.

30. No shares shall be transferable until all previous calls thereon have been fully paid in, or until the shares have been declared forfeited 10 for the non-payment of calls thereon. 13, 14 V. c. 28, s. 10.

34. The Stockholders of any Company incorporated or continued under this Act, shall be jointly and severally liable for all debts and contracts made by the Company until the whole amount of the Capital Stock of the Company, fixed and limited in manner aforesaid, has been paid in, and a certificate to that effect has been made and registered as prescribed in the next section of this Act, after which no Stockholder of such Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the Company, beyond the amount of his share or shares in the capital stock of the Company so 20 fixed and limited and paid in as aforesaid, save and except as hereinafter mentioned. 13, 14 V. c. 28, s. 11.

#### STATUTES OF ONTARIO.

37 Vic. (1874) c. 35.

IV. The foregoing Chapter 63 of The Consolidated Statutes of Canada (1859) was repealed by The Ontario Joint Stock Companies Letters Patent Act (1874) (Statutes of Ontario), First Parliament, 37 Victoria Chapter 35, the relevant sections of which are as follows :—

3. The Lieutenant-Governor in Council may, by letters patent under the great seal, grant a charter to any number of persons, not less than 30 five, who shall petition therefor, constituting such persons and others who may become shareholders in the Company thereby created, a body corporate and politic, for any purposes or objects to which the Legislative authority of the Legislature of Ontario extends, except the construction and working of Railways and the business of Insurance.

17. All powers given to the Company by the Letters Patent and supplementary Letters Patent granted in its behalf, shall be exercised subject to the provisions and restrictions contained in this Act.

18. The affairs of every such Company shall be managed by a Board, 40 of not less than three, nor more than nine Directors.

24. The Directors of the Company shall have full power in all things to administer the affairs of the Company; and may make, or cause to be made, for the Company, any description of contract which the Company may by law enter into; and may, from time to time, make by-laws not contrary to law, nor to the Letters Patent of the Company,

nor to this Act, to regulate the allotment of stock ; the making of calls thereon ; the payment thereof ; the issue and registration of certificates of stock ; the forfeiture of stock for non-payment ; the disposal of forfeited stock and of the proceeds thereof ; the transfer of stock ; the declaration and payment of dividends ; the number of the Directors, their term of service, the amount of their stock qualification ; the appointment, functions, duties and removal of all Agents, Officers and Servants of the Company ; the security to be given by them to the Company ; their remuneration ; the time at which, and place where the annual meetings of the Company shall be held ; the calling of meetings, regular and special, of the Board of Directors, and of the Company ; the quorum ; the requirements as to proxies ; and the procedure in all things at such meetings ; the imposition and recovery of all penalties and forfeitures admitting of regulation by By-law ; and the conduct in all other particulars of the affairs of the Company ;

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27. The Stock of the Company shall be deemed personal estate, and shall be transferable, in such manner only, and subject to all such conditions and restrictions as by this Act, or by the Letters Patent or By-laws of the Company, are or shall be prescribed.

20

33. No share shall be transferable, until all previous calls thereon have been fully paid in, or until declared forfeited for non-payment of calls thereon.

35. The Company shall cause a book or books to be kept by the Secretary, or by some other Officer especially charged with that duty, wherein shall be kept recorded :

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1. A copy of the Letters Patent incorporating the Company, and of any supplementary Letters Patent for increasing or decreasing the Capital Stock thereof, and of all By-laws thereof ;
2. The names, alphabetically arranged, of all persons who are or have been shareholders ;
3. The address and calling of every such person while such shareholder ;
4. The number of shares of stock held by each shareholder ;
5. The amounts paid in, and remaining unpaid, respectively, on the stock of each shareholder ;
6. All transfers of stock, in their order as presented to the Company for entry, with the date and other particulars of each transfer, and the date of the entry thereof ; and
7. The names, addresses and calling of all persons who are or have been Directors of the Company ; with the several dates at which each ever became or ceased to be such Director.

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36. The Directors may refuse to allow the entry, into any such book, of any transfer of stock whereon any call has been made which has not been paid in.

37. No transfer of stock, unless made by sale under execution, shall be valid for any purpose whatever, save only as exhibiting the rights of

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Statutes relating to the incorporation of companies in Ontario  
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Appendix.  
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 Statutes  
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the parties thereto towards each other, and as rendering the transferee liable *ad interim* jointly and severally with the transferor to the Company and their creditors, until the entry thereof has been duly made in such book or books.

38. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of Shareholders and Creditors of the Company, and their personal representatives, at the office or chief place of business of the Company; and every such Shareholder, Creditor or Representative, may make extracts therefrom.

39. Such books shall be *primâ facie* evidence of all facts purporting to be thereby stated, in any suit or proceeding against the Company or against any Shareholder. 10

40. No Director, Officer or Servant of the Company shall knowingly make or assist to make any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein; and any person violating the provisions of this section shall, besides being punished criminally, be liable in damages for all loss or injury which any person interested may have sustained thereby.

41. Any Director or Officer refusing to permit any person entitled thereto to inspect such book or books, or make extracts therefrom, shall forfeit and pay to the party aggrieved the sum of one hundred dollars; and in case the amount be not paid within seven days after the recovery of judgment, the court in which the judgment is recovered, or a judge thereof, may direct the imprisonment of the offender for any period not exceeding three months, unless the amount with costs be sooner paid. 20

46. Each shareholder, until the whole amount of his stock has been paid up, shall be individually liable to the Creditors of the Company, to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor, before an execution against the Company has been returned unsatisfied in whole or in part; and the amount due on such execution, shall, subject to the provisions of the next section, be the amount recoverable with costs, against such shareholders. Provided that any shareholders may plead by way of defence, in whole or in part, any set-off which he could set up against the Company, except a claim for unpaid dividends, or a salary, or allowance as a Resident or Director. 30

47. The Shareholders of the Company shall not as such be held responsible for any act, default, or liability, whatsoever, of the Company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the Company, beyond the unpaid amount of their respective shares in the capital stock thereof. 40

THE ONTARIO JOINT STOCK COMPANIES' LETTERS  
PATENT ACT.

R.S.O. 1877, c. 150.

V. The relevant provisions of this Act are substantially the same as those contained in the Revised Statutes of Ontario, 1887, Chapter 157, which are set out hereunder.

Appendix.  
Statutes relating to the incorporation of companies in Ontario  
—continued.

THE ONTARIO JOINT STOCK COMPANIES'  
LETTERS PATENT ACT.

VI.

R.S.O. 1887, c. 157.

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28. All powers given to the Company by the Letters Patent or Supplementary Letters Patent shall be exercised subject to the provisions and restrictions contained in this Act. R.S.O. 1877 c. 150, s. 20.

1897, c. 28, s. 45.

37. The Directors may, from time to time, make by-laws not contrary to law, or to the Letters Patent of the Company, or to this Act to regulate :

20

(a) The allotment of stock ; the making of calls thereon ; the payment thereof ; the issue and registration of certificates of stock ; the forfeiture of stock for non-payment ; the disposal of forfeited stock and of the proceeds thereof ; the transfer of stock ;

(b) The declaration and payment of dividends ;

(c) The number of directors, their term of service, the amount of their stock qualification ;

(d) The appointment, functions, duties and removal of all agents, officers and servants of the Company ; the security to be given by them to the Company ; and their remuneration ;

30

(e) The time at which, and place where the annual meetings of the Company shall be held ; the calling of meetings, regular and special, of the Board of Directors, and of the Company ; the quorum ; the requirements as to proxies ; and the procedure in all things at such meetings ;

(f) The imposition and recovery of all penalties and forfeitures admitting of regulation by by-law ; and

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(g) The conduct in all other particulars of the affairs of the Company ;  
and may from time to time, repeal, amend or re-enact the same ; but every such by-law, and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the

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Statutes  
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1897, c. 28, s. 26.

Company, duly called for that purpose, shall only have force until the next annual meeting of the Company; and in default of confirmation thereof, shall, at and from that time only, cease to have force; and in that case no new by-law to the same or like effect shall have any force, until confirmed at a general meeting of the Company. R.S.O. 1877, c. 150, s. 29.

41. The stock of the Company shall be deemed personal estate, and shall be transferable, in such manner only, and subject to all such conditions and 10 restrictions as by this Act, or by the Letters Patent or By-laws of the Company, may be prescribed. R.S.O. 1877, c. 150, s. 33.

1897, c. 28, s. 68.

50. The Company shall cause a book or books to be kept by the Secretary, or by some other officer especially charged with that duty, wherein shall be kept recorded—

(a) A copy of the Letters Patent incorporating the Company, and of any Supplementary Letters Patent issued to the Company, and of all by-laws 20 thereof;

(b) The names, alphabetically arranged, of all persons who are or have been shareholders;

(c) The address and calling of every such person while such shareholder;

(d) The number of shares of stock held by each shareholder;

(e) The amounts paid in, and remaining unpaid, respectively on the stock of each shareholder;

(f) All transfers of stock, in their order as 30 presented to the Company for entry, with the date and other particulars of each transfer, and the date of the entry thereof; and

(g) The names, addresses and calling of all persons who are or have been directors of the Company; with the several dates at which each person became or ceased to be such director. R.S.O. 1877, c. 150, s. 42.

1897, c. 28, s. 27 (part).

51. The Directors may refuse to allow the entry, into any such book, of any transfer of stock whereon 40 any call has been made which has not been paid in. R.S.O. 1877, c. 150, s. 43.

1897, c. 28, s. 28.

52. No transfer of stock, unless made by sale under execution, or under the order, or judgment of some competent Court in that behalf, shall be valid for any purpose whatever, save only as exhibiting the

rights of the parties thereto towards each other, and as rendering the transferee liable, *ad interim*, jointly and severally with the transferor, to the Company and its creditors, until entry thereof has been duly made in the books of the Company. 48 V. c. 33, s. 4.

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 Statutes relating to the incorporation of companies in Ontario  
 —continued.

1897, c. 28, s. 71.

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53. Such books shall, during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of Shareholders and Creditors of the Company, and their personal representatives, at the office or chief place of business of the Company; and every such shareholder, creditor or representative, may make extracts therefrom. R.S.O. 1877, c. 150, s. 45.

1897, c. 28, s. 73.

54. Such books shall be *prima facie* evidence of all facts purporting to be thereby stated, in any action or proceeding against the Company or against any shareholder. R.S.O. 1877, c. 150, s. 46.

1897, c. 28, s. 69.

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55. No Director, Officer or Servant of the Company, shall knowingly make or assist to make any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein; and any person violating the provisions of this section shall, besides any criminal liability which he may thereby incur, be liable in damages for all loss or injury which any person interested may have sustained thereby. R.S.O. 1877, c. 150, s. 47.

1897, c. 28, s. 72.

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56. Any Director or Officer who refuses to permit any person entitled thereto to inspect such book or books, or make extracts therefrom, shall forfeit and pay to the party aggrieved the sum of \$100; and in case the amount is not paid within seven days after the recovery of judgment, the Court in which the judgment is recovered, or a Judge thereof, may direct the imprisonment of the offender for any period not exceeding three months unless the amount with costs is sooner paid. R.S.O. 1877, c. 150, s. 48.

THE ONTARIO COMPANIES ACT.

1897, 60 Vict. c. 28.

VII. APPLICATION OF THIS ACT.

40

ss. 3-7.

3. No company shall hereafter be incorporated under *The Ontario Joint Stock Companies' Letters Patent Act*, being chapter 157 of the Revised Statutes



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Statutes  
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of Ontario, 1887, and amendments thereto, for which this Act is hereby substituted, but the future incorporation of every company by Letters Patent shall be governed by this Act, and all the provisions of this Act shall apply to every such company, subject to the provisions of any general Act applying to the Company other than the said chapter 157 and amendments.

## INCORPORATION BY LETTERS PATENT.

ss. 8-14.

## CAPITAL, SHARES, ETC.

ss. 15-20.

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## FIRST MEETING.

s. 21.

## USE OF THE WORD "LIMITED."

ss. 22-23.

## INCIDENTAL POWERS OF COMPANIES.

s. 24.

## STOCK, CALLS, ETC.

ss. 25-35.

R.S.O. 1937, c. 251, s. 56(1).  
R.S.O. 1927, c. 218, s. 58(1).  
R.S.O. 1914, c. 178, s. 56(1).

26. The shares of stock of the Company shall be deemed personal estate, and shall be transferable on the books of the Company, in such manner only, and subject to all such conditions and restrictions as by this Act, or by the special Act, or by the Letters Patent or By-laws of the Company may be prescribed. R.S.O. 1887, c. 157, s. 41.

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R.S.O. 1937, c. 251, s. 57.  
R.S.O. 1927, c. 218, s. 59.  
R.S.O. 1914, c. 178, s. 57 (1)  
(2) and (3).

27. The Directors may refuse to allow the entry in any such book, of any transfer of Shares of stock whereof the whole amount has not been paid in ; and whenever entry is made in such book of any transfer of stock, not fully paid in, to a person not being of apparently sufficient means, the Directors present when such entry is authorized shall be jointly and severally, liable to the creditors of the Company in the same manner and to the same extent as the transferring shareholder, but for such entry, would have been ; but if any Director present when such entry is allowed, forthwith, enters a written protest against the same, and within eight days thereafter causes such protest to be notified, by registered letter, to the Provincial Secretary, such Director may thereby, and not other-

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wise, exonerate himself from such liability. R.S.O. 1887, c. 157, s. 51 ; R.S.O. 1887, c. 156, s. 27. Appendix

R.S.O. 1937, c. 251, s. 60.  
R.S.O. 1927, c. 218, s. 62.  
R.S.O. 1914, c. 178, s. 60.

28. No transfer of shares of stock, unless made by sale under execution, or under the order, or judgment of some competent Court in that behalf, shall be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and as rendering the transferee liable, *ad interim* jointly and severally with the transferor, to the Company and its creditors, until entry thereof has been duly made in the books of the Company. R.S.O. 1887, c. 157, s. 52.

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#### LIMITED LIABILITY, ETC.

ss. 36-38.

#### DIRECTORS AND THEIR POWERS, ETC.

ss. 39-47.

R.S.O. 1937, c. 251, s. 91.  
R.S.O. 1927, c. 218, s. 93.  
R.S.O. 1914, c. 178, s. 91.

45. The Directors may, from time to time, make by-laws not contrary to law, or to the Letters Patent of the Company, or to this Act, to regulate—

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(a) The allotment of stock ; the making of calls thereon ; the payment thereof ; the issue and registration of certificates of stock, the forfeiture of stock for non-payment ; the disposal of forfeited stock and of the proceeds thereof ; the transfer of stock ;

(b) The declaration and payment of dividends ;

(c) The term of service not exceeding two years, and the amount of the stock qualification of the Directors.

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(d) The appointment, functions, duties and removal of all Officers, Agents and Servants of the Company ; the security to be given by them to the Company ; and their remuneration ;

(e) The time at which, and place where the general meetings of the Company shall be held ; the calling of meetings, regular and special, of the Board of Directors, and of the Company ; the quorum ; the requirements as to proxies ; and the procedure in all things at such meetings ;

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(f) The imposition and recovery of all penalties and forfeitures admitting of regulation by by-law ; and

(g) The conduct in all other particulars of the affairs of the Company ;

And may from time to time repeal, amend, or re-enact the same ; but every such by-law and every repeal,

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amendment, or re-enactment thereof, unless in the meantime confirmed at a general meeting of the Company duly called for that purpose, shall only have force until the next annual meeting of the Company ; and in default of confirmation thereat, shall, at and from that time only, cease to have force ; and in that case no new by-law to the same or like effect shall have any force until confirmed at a general meeting of the Company ; provided, however, that the Company shall have power either at the general meeting, called as aforesaid, or at the annual meeting of the Company, to repeal, amend, vary or otherwise deal with any by-laws which have been passed by the Directors, but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation or other dealing. R.S.O. 1887, c. 157, s. 37. 10

ANNUAL, GENERAL AND SPECIAL MEETINGS.  
 ss. 48-61.

NOTICES, SUMMONS, ACTIONS, ETC. 20  
 ss. 62-67.

BOOKS TO BE KEPT AND WHAT TO CONTAIN.  
 ss. 68-74.

R.S.O. 1937, c. 251, s. 101.  
 R.S.O. 1927, c. 218, s. 121.  
 R.S.O. 1914, c. 178, s. 118.

68. The Company shall cause the Secretary, or some other Officer especially charged with that duty, to keep a book or books wherein shall be kept recorded :

(a) A copy of the Letters Patent incorporating the Company and of any Supplementary Letters Patent issued to the Company ; and if incorporated by special Act, the chapter and year of such Act. 30

(b) The names, alphabetically arranged, of all persons, who are or have been shareholders in the Company ;

(c) The post-office address and calling of every such person while such shareholder ;

(d) The number of shares of stock held by each shareholder ;

(e) The amounts paid in, and remaining unpaid, respectively, on the stock of each shareholder ;

(f) The date and other particulars of all transfers of stock in their order ; and 40

(g) The names, post-office addresses and callings of all persons who are or have been directors of the Company ; with the several dates at which each

person became or ceased to be such director. R.S.O. Appendix.  
1887, c. 157, s. 50.

R.S.O. 1937, c. 251, s. 103.  
R.S.O. 1927, c. 218, s. 123.  
R.S.O. 1914, c. 178, s. 120.

69. No Director, Officer or Servant of the Company shall knowingly make or assist to make any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein; and any person violating wilfully the provisions of this section shall, besides any criminal liability which he may thereby incur, be liable in damages for all loss or injury which any person interested may have sustained thereby. R.S.O. 1887, c. 157, s. 55.

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R.S.O. 1937, c. 251, s. 104.  
R.S.O. 1927, c. 218, s. 124.  
R.S.O. 1914, c. 178, s. 121.

70. If the name of any person is, without sufficient cause, entered in or omitted from such book or books of the Company, or if default is made or unnecessary delay takes place in entering in said books, the fact of any person having ceased to be a Shareholder of the Company, the person or shareholder aggrieved, or any shareholder of the Company, or the Company itself may by application to a judge apply for an order that the book or books be rectified, and the judge may either refuse such application with or without costs to be paid by the applicant, or he may, if satisfied of the justice of the case, make an order for the rectification of the said book or books, and may direct the Company to pay the costs of such motion or application and any damages the party aggrieved may have sustained. The judge may in any proceeding under this section, decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from the said books of the Company, whether such question arises between two or more shareholders, or alleged shareholders, or between any shareholders or alleged shareholders, and the Company, and, generally, the judge may in any such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the said books; provided that the judge may direct an issue to be tried in which any question of law may be raised; provided also that an appeal shall lie, as in ordinary cases, before such judge; and further provided that this section shall not deprive any Court of any jurisdiction it may have.

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R.S.O. 1937, c. 251, s. 105(1).  
R.S.O. 1927, c. 218, s. 125(1).  
R.S.O. 1914, c. 178, s. 122(1).

71. Such books shall during reasonable business hours of every day, except Sundays and holidays, be kept open for the inspection of shareholders and creditors of the Company, and their personal repre-

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R.S.O. 1937, c. 251, s. 105(2).  
R.S.O. 1927, c. 218, s. 125(2).  
R.S.O. 1914, c. 178, s. 122(2).

R.S.O. 1937, c. 251, s. 106.  
R.S.O. 1927, c. 218, s. 126.  
R.S.O. 1914, c. 178, s. 123.

R.S.O. 1937, c. 251, s. 107.  
R.S.O. 1927, c. 218, s. 127.  
R.S.O. 1914, c. 178, s. 124.

representatives or agents at the head office and every such shareholder, creditor, agent or representative may make extracts therefrom. R.S.O. 1887, c. 157, s. 53.

72. Any director or officer who refuses to permit any person entitled thereto to inspect such book or books, or make extracts therefrom, shall forfeit and pay to the party aggrieved the sum of one hundred dollars; and in case the amount is not paid within seven days after the recovery of judgment, the court in which the judgment is recovered, or a judge 10 thereof, may direct the imprisonment of the offender for any period not exceeding three months unless the amount with costs is sooner paid. R.S.O. 1887, c. 157, s. 56.

73. Such books shall be *prima facie* evidence of all facts purporting to be thereby stated, in any action or proceeding against the Company or against any shareholder. R.S.O. 1887, c. 157, s. 54.

74. The Directors shall cause proper books of account to be kept containing full and true statements 20

(a) Of the Company's financial and trading transactions;

(b) Of the stock-in-trade of the Company;

(c) Of the sums of money received and expended by the Company, and the matters in respect of which such receipt or expenditure takes place, and

(d) Of the credits and liabilities of the Company;

(e) And also a book or books containing minutes of all the proceedings and votes of the Company, or of the Board of Directors, respectively, and the By- 30 laws of the Company, duly authenticated, and such minutes shall be verified by the signature of the President, or other presiding officer of the Company.  
(new)

## ANNUAL STATEMENT AND SUMMARY, ETC.

ss. 75-76.

## INSPECTORS MAY BE APPOINTED.

s. 77.

## CONTRACTS, DIVIDENDS, ETC.

ss. 78-83.

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## AUDITORS AND THEIR DUTIES.

ss. 84-91.

## FEES, ETC.

ss. 92-93.

LIABILITY FOR FALSE STATEMENTS.  
ss. 94-96.

FORFEITURE OR SURRENDER OF A CHARTER, ETC.  
ss. 97-100.

EXTENSION OF POWERS.  
s. 101.

AMALGAMATION OF COMPANIES.  
ss. 102-103.

EXTRA-PROVINCIAL COMPANIES.  
ss. 104-105.

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## THE ONTARIO COMPANIES ACT.

R.S.O. 1914, Chap. 178.

### PART III.

MEETINGS OF COMPANY.  
ss. 43-52.

R.S.O. 1937, c. 251, s. 53.  
R.S.O. 1927, c. 218, s. 54.

enacted 1907, c. 34, s. 44,  
and amended.

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52. Meetings of the Shareholders, Directors and Executive Committees shall be held at the place where the head office of the Company is situate except when otherwise provided by the Special Act, Letters Patent, Supplementary Letters Patent or the By-laws of the Company, but shall not be held out of Ontario unless when so authorized by the Special Act, Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 50.

### PART IV.

SHARES, CALLS.  
ss. 53-77.

R.S.O. 1937, c. 251, s. 54 (1).  
R.S.O. 1927, c. 218, s. 56 (1).

30 enacted 1907, c. 34, s. 46.

54. (1) Every shareholder shall, without payment, be entitled to a certificate under the Common Seal of the Company stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint shareholders shall be sufficient delivery to all.

R.S.O. 1937, c. 251, s. 54 (3).  
R.S.O. 1927, c. 218, s. 56 (2).

enacted 1912, c. 31, s. 52 (2).

(2) The certificate shall be *primâ facie* evidence of the title of the shareholder to the shares mentioned in it. 2 Geo. V. c. 31, s. 52 (1 & 2).

Appendix. R.S.O. 1937, c. 251, s. 55.  
 R.S.O. 1927, c. 218, s. 57.  
 Statutes enacted 1907, c. 34, s. 47.  
 relating to the incorporation of companies in Ontario  
 —continued. R.S.O. 1937, c. 251, s. 56.  
 R.S.O. 1927, c. 218, s. 58.  
 1897, c. 28, s. 26.

55. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding twenty-five cents and on such terms, if any, as to evidence and indemnity as the directors think fit. 2 Geo. V. c. 31, s. 53.

56. (1) The shares of the Company shall be deemed personal estate and shall be transferable on the books of the Company in such manner and subject to such conditions and restrictions as by this Act, the Special Act, the Letters Patent, Supplementary Letters Patent or By-laws of the company may be prescribed.

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Ss. 2 enacted 1912, c. 31, s. 54 (2).

(2) Subject to section 58, no By-law shall be passed which in any way restricts the right of a holder of paid-up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. 2 Geo. V. c. 31, s. 54.

R.S.O. 1937, c. 251, s. 57 (1).  
 R.S.O. 1927, c. 218, s. 59 (1).  
 1897, c. 28, s. 27 (Am.).

57. (1) No transfer of shares the whole amount whereof has not been paid up shall be made without the consent of the Directors. 2 Geo. V. c. 31, s. 55.

- (2) . . .
- (3) . . .
- (4) . . .

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R.S.O. 1937, c. 251, s. 58.  
 R.S.O. 1927, c. 218, s. 60.  
 enacted 1912, c. 31, s. 56.

58. Where the Letters Patent, Supplementary Letters Patent or By-laws of a corporation confer that power on the Directors, they may decline to register a transfer of shares belonging to a Shareholder who is indebted to the corporation. 2 Geo. V. c. 31, s. 56.

R.S.O. 1937, c. 251, s. 60.  
 R.S.O. 1927, c. 218, s. 62.  
 1897, c. 28, s. 28.

60. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, shall, until entry thereof has been duly made, be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the Company and its creditors until entry thereof has been duly made in the books of the Company. 2 Geo. V. c. 31, s. 58.

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R.S.O. 1937, c. 251, s. 61,  
 R.S.O. 1927, c. 218, s. 63.  
 enacted 1907, c. 34, s. 53,  
 and amended.

61. (1) The Directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

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(2) Such owner may lodge a caveat against the entry of the transfer and thereupon such transfer shall not be made for a period of forty-eight hours. Appendix. — Statutes relating to the incorporation of companies in Ontario —continued.

(3) If, within one week from the giving of such notice or the expiration of the period of forty-eight hours, whichever shall last expire, no order of a competent court enjoining the entry of such transfer shall have been served upon the Company the transfer may be entered.

10 (4) Where a transfer is entered after the proceedings mentioned in this section the Company shall, in respect of the shares so transferred, be free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim which the transferor may have against the transferee. 2 Geo. V. c. 31, s. 59.

## PART VI.

### DIRECTORS AND THEIR POWERS, ETC. ss. 83-98.

20 R.S.O. 1937, c. 251, s. 91.  
R.S.O. 1927, c. 218, s. 93.  
1897, c. 28, s. 45.

91. (1) The Directors may pass By-laws, not contrary to law or to the Letters Patent or Supplementary Letters Patent or to this Act, to regulate :

(a) The allotment of shares ; the making of calls thereon ; the payment thereof ; the issue and registration of certificates of shares ; the forfeiture of shares for non-payment ; the disposal of forfeited shares and of the proceeds thereof ; the transfer of shares ;

(b) The declaration and payment of dividends ;

30 (c) The amount of the share qualification of the Directors and the remuneration of the Directors and of the President and Vice-President ;

(d) The time at which and place where the meetings of the Company shall be held ; the calling of meetings of the Company ; and the procedure in all things at such meetings ; and except as provided by section 51 of the requirements as to proxies ;

(e) The conduct in all other particulars of the affairs of the Company.

40 (2) Subject to the provisions of subsection 3 every such By-law and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the Company duly called for that purpose, shall have force only until the next annual



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meeting of the Company ; and in default of confirma-  
tion thereof shall, at and from that time, cease to  
have force ; and in that case no new By-law to the  
same or the like effect or re-enactment thereof shall  
have any force until confirmed at a general meeting  
of the Company.

(3) The Company may, either at a general meeting  
called for that purpose or at the annual meeting,  
repeal, amend, vary or otherwise deal with any By-law 10  
passed by the Directors, but no act done or right  
acquired under any By-law shall be prejudicially  
affected by any such repeal, amendment, variation  
or other dealing. 2 Geo. V. c. 31, s. 89.

## PART IX.

BOOKS, INSPECTION AND AUDITORS.  
ss. 118-134.

R.S.O. 1937, c. 251, s. 101.  
R.S.O. 1927, c. 218, s. 121.

1897, c. 28, s. 68.

118. The Corporation shall cause the Secretary,  
or some other officer specially charged with that duty,  
to keep a book or books wherein shall be kept recorded : 20

(a) A copy of the Letters Patent and of any  
Supplementary Letters Patent issued to the Cor-  
poration and, if incorporated by Special Act, a  
copy of such Act, and the By-laws of the Corporation  
duly authenticated ;

(b) The names, alphabetically arranged, of all  
persons who are or who have been shareholders or  
members of the Corporation ;

(c) The post office address and calling of every  
such person while such shareholder or member ; 30

(d) The names, post office addresses and callings  
of all persons who are or have been Directors of the  
Corporation, with the date at which each person  
became or ceased to be such Director ;

And in case of a Corporation having share capital—

(e) The number of shares held by each share-  
holder ;

(f) The amounts paid in, and remaining unpaid  
respectively, on the shares of each shareholder ;

(g) The date and other particulars of all 40  
transfers of shares in their order. 2 Geo. V. c. 31,  
s. 116.

R.S.O. 1937, c. 251, s. 102.  
R.S.O. 1927, c. 218, s. 122.

enacted 1907, c. 34, s. 114.

119. (1) The books mentioned in the next preced-  
ing section and in section 124 shall be kept at the head  
office of the Corporation within Ontario, whether the

Company is permitted to hold its meetings out of Ontario or not. Appendix.

(2) Any director, officer or employee of a Corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section shall incur a penalty of \$200.

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(3) Upon necessity therefor being shown and adequate assurance given that such books may be inspected within Ontario by any person entitled thereto after application for such inspection to the Provincial Secretary the Lieutenant-Governor in Council may relieve any corporation permitted to hold its meetings out of Ontario from the provisions of this section upon such terms as he may see fit. 2 Geo. V. c. 31, s. 117.

R.S.O. 1937, c. 251, s. 103.  
R.S.O. 1927, c. 218, s. 123.  
1897, c. 28, s. 69.

120. (1) No director, officer or employee of the corporation shall knowingly make or assist in making any untrue entry in any of its books, or refuse or neglect to make any proper entry therein.

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(2) Any person wilfully violating the provisions of this section shall be liable in damages for all loss or injury which any person interested may have sustained thereby. 2 Geo. V. c. 31, s. 118.

R.S.O. 1937, c. 251, s. 104.  
R.S.O. 1927, c. 218, s. 124.  
1897, c. 28, s. 70.

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121. (1) If the name of any person is, without sufficient cause, entered in or omitted from any such book, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the Corporation, the person or shareholder or member aggrieved, or any shareholder or member of the Corporation, or the Corporation itself, may apply to the Supreme Court for an order that the book or books be rectified, and the Court may either refuse such application or may make an order for the rectification of the book, and may direct the Corporation to pay any damages the party aggrieved may have sustained.

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(2) The Court may, in any proceeding under this section, decide any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from such books, whether such question arises between two or more shareholders, or alleged shareholders, or members, or between any shareholder or alleged shareholder or member and the Corporation, and the Court may in any such proceeding decide any question which it may

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be necessary or expedient to decide for the rectification of the books.

(3) The Court may direct an issue to be tried.

(4) An appeal shall lie from the decision of the Court as if the same had been given in an action.

(5) This section shall not deprive any Court of any jurisdiction it may otherwise have.

(6) The costs of any proceeding under this section shall be in the discretion of the Court. 2 Geo. V. c. 31, s. 119.

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R.S.O. 1937, c. 251, s. 105.  
R.S.O. 1927, c. 218, s. 125.

1897, c. 28, s. 71.

122. (1) The books mentioned in section 118 shall, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders members and creditors of the Corporation and their personal representatives or agents, at the head office or chief place of carrying on its undertaking, and every such shareholder, member, creditor, agent or representative, may make extracts therefrom.

1897, c. 28, s. 72.

(2) Any director or officer who refuses to permit any person entitled thereto to inspect such books, or make extracts therefrom, shall incur a penalty not exceeding \$100. 2 Geo. V. c. 31, s. 120.

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R.S.O. 1937, c. 251, s. 106.  
R.S.O. 1927, c. 218, s. 126.

1897, c. 28, s. 73.

123. Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any action or proceeding against the Corporation or against any shareholder or member. 2 Geo. V. c. 31, s. 121.

R.S.O. 1937, c. 251, s. 107.  
R.S.O. 1927, c. 218, s. 127.

1897, c. 28, s. 74.

124. The Directors shall cause proper books of account to be kept containing full and true statements of:—

(a) The financial transactions of the Corpora- 30  
tion ;

(b) The assets of the Corporation ;

(c) The sums of money received and expended by the Corporation, and the matters in respect of which such receipt or expenditure took place ;

(d) The credits and liabilities of the Corpora-  
tion ; and

a book or books containing minutes of all the proceed-  
ings and votes of the Corporation, or of the Board of  
Directors, respectively, verified by the signature of the 40  
President or other presiding officer of the Corporation.  
2 Geo. V. c. 31, s. 122.

## PART XIV.

Appendix.

## GENERAL PROVISIONS.

ss. 207-209.

208. (1) This Act, except in so far as it is otherwise expressly declared, shall apply to :

(e) Every Corporation incorporated under this Act or under *The Ontario Companies Act* (1907) or *The Ontario Companies Act* (1912). (See 2 Geo. V. c. 17, s. 50.)

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companies  
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# In the Privy Council.

No. 19 of 1941.

ON APPEAL FROM THE COURT OF APPEAL  
FOR ONTARIO.

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BETWEEN

HIS MAJESTY THE KING, as repre-  
sented by THE ATTORNEY GENERAL  
FOR ONTARIO ... .. *Appellant*

AND

EVA MAY WILLIAMS and REGINALD  
VICTOR WILLIAMS, Executors of  
the Will of ALEXANDER DUNCAN  
WILLIAMS, deceased  
*(Suppliants) Respondents.*

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RECORD OF PROCEEDINGS  
AND  
JOINT APPENDIX OF STATUTES

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BLAKE & REDDEN,  
17 Victoria Street, S.W.1,  
*Solicitors for the Appellant.*

LEE & PEMBERTONS,  
44 Lincoln's Inn Fields, W.C.2,  
*Solicitors for the Respondents.*