

47, 1947 A I. J. Ryan

DOMINION OF CANADA

**In the Supreme Court of Canada**  
(OTTAWA)

On appeal from a Judgment of the Court of King's Bench, in appeal.

**Angus William Robertson,**

(Defendant in the Superior Court and Appellant  
in the Court of King's Bench, in appeal),

**APPELLANT.**

— and —

**Ethel Quinlan, & vir, & al,**

(Plaintiff's in the Superior Court and Respondents  
in the Court of King's Bench, in appeal),

**RESPONDENTS.**

— and —

**Capital Trust Corporation Limited,**

(Defendant in the Superior Court),

— and —

**Dame Catherine Ryan, & al,**

**MIS-EN-CAUSE.**

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**THE CASE**

**VOL. II. — PLAINTIFF'S EVIDENCE ON DISCOVERY (continued).**

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# INDEX

## VOLUME I

Vol. I

Inscription en appel ..... 21 Février 1931.. 2

### PART 1st. — PLEADINGS, &c.

Amended Declaration ..... 28th Feb. 1930... 3

Amended Writ ..... 26th Feb. 1930... 15

Defence of Capital Trust Corporation Limited, Defendant ..... 13th Nov. 1928... 17

Plea of the Defendant Angus W. Robertson ..... 17th Nov. 1928... 26

Plaintiffs' motion to strike out paragraphs from plea of Defendant. — A. W. Robertson — and affidavit..... 27th Nov. 1928... 34

Judgment of the Superior Court dismissing motion with costs..... 7th Jan. 1929... 36

Plaintiffs' motion for Particulars affidavit ..... 8th Jan. 1929... 41

Judgment of the Superior Court to furnish Particulars ..... 6th March 1929.. 45

Plaintiffs' motion for Particulars affidavit ..... 8th Jan. 1929... 47

Judgment of the Superior Court granting Plaintiffs' motion in part, etc.....	8th March 1929..	50
Exception to interlocutory Judgment .....	8th Jan. 1929..	52
Particulars furnished by Defendant Ca- pital Trust Corporation, Limited.....	27th March 1929..	52
Particulars furnished by Defendant A. W. Robertson .....	9th April 1929....	55
Plaintiffs' answer to plea of Capital Trust Corporation, Limited .....	11th April 1929..	58
Replication of Capital Trust Corporation, Limited, Defendant .....	17th April 1929..	64
Plaintiffs' reply to replication of Capital Trust Corporation Limited .....	19th April 1929..	66
Plaintiffs' motion to amend.....	7th Jan. 1931..	67
New Amended Declaration .....	10th Jan. 1931..	73
Amended Plea of the Defendant A. W. Robertson, to the Amended Declara- tion of the Plaintiffs .....	14th Jan. 1931....	86
Answer to Amended Plea of Defendant A. W. Robertson .....	15th Jan. 1931....	94
Reply to the Plaintiffs' answer to the Amended Plea of Defendant A. W. Robertson .....	16th Jan. 1931....	101
Plaintiffs' reply to Defendant Robertson's reply .....	17th Jan. 1931....	101
Exception à Jugement .....	9 Déc. 1930.....	102

## VOLUME VIII

Vol. VIII

Requête pour permission d'aller à la Cour Suprême .....	11 Janvier 1933..	832
Judgment on petition of the Appellant for leave to appeal to the Supreme Court of Canada .....	16th Jany 1933..	835
Bail Bond .....	19 Janvier 1933..	836
Consentement des parties pour constituer le Dossier devant servir devant la Cour Suprême du Canada.....	23 Janvier 1933..	838
Certificate as to Case .....	15th May 1933....	839
Certificate of Clerk of appeals as to settle- ment of Case, as to Security and as to reasons of judgment .....	May 1933.....	840

## VOLUME I (CONTINUED)

### PART II. — WITNESSES

#### PLAINTIFF'S EVIDENCE ON DISCOVERY

Vol. I

Deposition of Angus W. Robertson,—		
Examination in Chief .....	21st Oct. 1929.....	103
Deposition of Angus W. Robertson,—		
Examination in Chief .....	22nd Oct. 1929....	129
Examination in Chief .....	25th Oct. 1929....	185

**VOLUME II**

Vol. II

**PLAINTIFF'S EVIDENCE ON DISCOVERY** (*continued*).

Examination in Chief .....	29th Oct. 1929	214
Examination in Chief .....	30th Oct. 1929	237
Examination in Chief .....	12th Nov. 1929	292
Examination in Chief .....	22nd Nov. 1929	324
Examination in Chief .....	26th Nov. 1929	347
Examination in Chief .....	11th Dec. 1929	363
Examination in Chief .....	18th Dec. 1929	369

**Deposition of Emmanuel Ludger Parent,—**

Examination in Chief .....	5th Feb. 1930	393
Examination in Chief .....	19th Feb. 1930	431
Examination in Chief .....	14th May 1930	444
Examination in Chief .....	25th June 1930	450

**VOLUME III**

**PLAINTIFF'S EVIDENCE**

Vol. III

**Deposition of Emmanuel L. Parent,—**

Examination in Chief .....	17th Sept. 1930	456
----------------------------	-----------------	-----

Deposition of Clifford J. Malone,—	
Examination in Chief .....	17th Sept. 1930. 458
Deposition of Alban Janin,—	
Examination in Chief .....	17th Sept. 1930. 460
Deposition of Thomas F. Spellane,—	
Examination in Chief .....	17th Sept. 1930. 464
Deposition of Archibald J. M. Petrie,—	
Examination in Chief .....	17th Sept. 1930. 465
Deposition of Charles A. Shannon,—	
Examination in Chief .....	17th Sept. 1930. 466
Deposition of William A. Quinlan,—	
Examination in Chief .....	17th Sept. 1930. 468
Deposition of Angus W. Robertson,—	
Examination in Chief .....	17th Sept. 1930. 469
Deposition of Andrew M. Harnwell,—	
Examination in Chief .....	17th Sept. 1930. 474
Deposition of Frederick W. Cooper,—	
Examination in Chief .....	27th Oct. 1930. 481
Cross-examination for Capital Trust Coy. ....	487

— VIII —

Vol. III

Deposition of Jean McArthur,—

Examination in Chief ..... 2nd Dec. 1930.. 554

Cross-examination for Defendant  
Robertson ..... 559

Deposition of Vernie Louise Kerr,—

Examination in Chief ..... 2nd Dec. 1930.. 560

Deposition of Jean McArthur (recalled),—

Examination in Chief ..... 2nd Dec. 1930.. 570

Deposition of Clifford J. Malone (recalled),—

Examination in Chief ..... 2nd Dec. 1930.. 573

Deposition of Margaret Quinlan,—

Examination in Chief ..... 2nd Dec. 1930.. 574

Cross-examination for Defendant  
Robertson ..... 580

Deposition of Anne Quinlan,—

Examination in Chief ..... 2nd Dec. 1930.. 581

Deposition of Katherine Clark,—

Examination in Chief ..... 2nd Dec. 1930.. 582

Deposition of William A. Quinlan,—

Examination in Chief ..... 2nd Dec. 1930.. 584

Cross-examination for Defendants  
Robertson and Capital Trust  
Co. .... 588



Deposition of Emmanuel L. Parent (recalled),—	
Examination in Chief .....2nd Dec. 1930..	589
Cross-examination for Defendant Capital Trust Co. ....	596
Deposition of Clifford J. Malone (recalled),—	
Examination in Chief .....2nd Dec. 1930..	598
Deposition of Bernard Gervase Connolly,—	
Examination in Chief .....2nd Dec. 1930..	604
Cross-examination .....	606
Deposition of Robert Schurman (recalled),—	
Examination in Chief .....3rd Dec. 1930.....	607
Cross-examination for Defendant Capital Trust .....	615
Deposition of Clifford J. Malone (recalled),—	
Examination in Chief .....3rd Dec. 1930..	628
Deposition of Emmanuel L. Parent (recalled),—	
Examination in Chief .....3rd Dec. 1930..	632
Cross-examination for Defendant Capital Trust .....	638
Deposition of John I. McDonald,—	
Examination in Chief .....3rd Dec. 1930..	640

Deposition of Vernie L. Kerr (recalled),—

Examination in Chief .....	3rd Dec. 1930..	641
Cross-examination for Defendant Robertson .....		643

Deposition of Angus W. Robertson (recalled),—

Examination in Chief .....	3rd Dec. 1930..	647
Cross-examination for Defendant Robertson .....		649

Deposition of Louis N. Leamy,—

Examination in Chief .....	3rd Dec. 1930..	651
Cross-examination for Defendant Robertson .....		652

Deposition of Anatole Lazure,—

Examination in Chief .....	3rd Dec. 1930..	653
Cross-examination .....		655

Deposition of Harry E. Andison,—

Examination in Chief .....	4th Dec. 1930..	656
----------------------------	-----------------	-----

**VOLUME IV**

**DEFENDANT'S EVIDENCE**

Deposition of Doctor Francis J. Hackett (for Defendant  
Robertson),—

Examination in Chief .....	3rd Dec. 1930..	658
----------------------------	-----------------	-----

Deposition of Louis N. Leamy (for Defendant Robertson),—

Examination in Chief ..... 3rd Dec. 1930.. .. 662

Deposition of Helen King (for Defendant Robertson),—

Examination in Chief ..... 3rd Dec. 1930.. .. 664

Deposition of Helen King (for Defendant Robertson),—

Examination in Chief ..... 4th Dec. 1930.. .. 668

Cross-examination ..... 669

Deposition of George S. McCord (for Defendant Robertson),—

Examination in Chief ..... 4th Dec. 1930.. .. 670

Cross-examination ..... 675

Deposition of George William Rayner (for Defendant Robertson),—

Examination in Chief ..... 4th Dec. 1930.. .. 678

Cross-examination ..... 680

Deposition of William E. Tummon (for Defendant Robertson),—

Examination in Chief ..... 4th Dec. 1930.. .. 682

Cross-examination ..... 689

Deposition of Archibald J. M. Petrie (for Defendant Robertson),—

Examination in Chief ..... 4th Dec. 1930.. .. 690

Cross-examination ..... 699

Deposition of Maréchal Nantel,—

Examination in Chief .....4th Dec. 1930.. .. 707

Deposition of Charles A. Shannon (for Defendant Robertson),—

Examination in Chief .....4th Dec. 1930.. .. 708

Deposition of Alfred S. Clerke,—

Examination in Chief .....4th Dec. 1930.. .. 717

Cross-examination ..... 718

Deposition of Alban Janin (for Defendant Robertson),—

Examination in Chief .....4th Dec. 1930.. .. 720

Examination in Chief .....5th Dec. 1930.. .. 729

Cross-examination ..... 735

Deposition of Charles A. Shannon (recalled for Defendant Robertson),—

Examination in Chief .....5th Dec. 1930.. .. 749

Deposition of Daryl G. Peters (for Defendant Capital Trust),—

Examination in Chief ..... 5th Dec. 1930.. .. 752

Cross-examination ..... 753

Deposition of Walter Miller (for Defendant Robertson),—

Examination in Chief .....5th Dec. 1930.. .. 754

Cross-examination ..... 756

Deposition of Louis N. Leamy (for Defendant Robertson),—	
Examination in Chief .....	5th Dec. 1930.. 757
Deposition of Charles R. Hazen (for Defendant Robertson),—	
Examination in Chief .....	5th Dec. 1930.. 762
Cross-examination .....	766
Deposition of Emmanuel L. Parent (recalled for Defendant Capital Trust),—	
Examination in Chief .....	5th Dec. 1930.. 771
Cross-examination .....	779
Deposition of Dr. Bernard Gervase Connolly (for Defendant Capital Trust),—	
Examination in Chief .....	5th Dec. 1930.. 784
Cross-examination .....	789
Deposition of A. W. Robertson,—	
Examination in Chief .....	9th Dec. 1930.. 792
Deposition of Louis N. Leamy,—	
Examination in Chief .....	9th Dec. 1930.. 793
Cross-examination .....	799
Deposition of A. B. Collins,—	
Examination in Chief .....	9th Dec. 1930.. 800
Cross-examination .....	805

Deposition of James F. M. Stewart,—

Examination in Chief .....	9th Dec. 1930..	809
Cross-examination .....		810

Deposition of Alban Janin,—

Examination in Chief .....	9th Dec. 1930..	813
Cross-examination .....		814

Deposition of Emmanuel Parent,—

Examination in Chief .....	9th Dec. 1930..	815
----------------------------	-----------------	-----

Deposition of Helen King,—

Examination in Chief .....	9th Dec. 1930..	817
----------------------------	-----------------	-----

Deposition of A. W. Robertson,—

Examination in Chief .....	9th Dec. 1930..	818
Cross-examination .....		829
Re-examination .....		831

Deposition of E. L. Parent,—

Examination in Chief .....	9th Dec. 1930..	832
----------------------------	-----------------	-----

Deposition of Fraser Aylesworth,—

Examination in Chief .....	29th Dec. 1930..	833
----------------------------	------------------	-----

Deposition of William E. Tummon,—

Examination in Chief .....	29th Dec. 1930....	836
Cross-examination .....		837

Deposition of A. B. Collins (recalled),—

Cross-examination .....	29th Dec. 1930..	840
-------------------------	------------------	-----

---

Admission of Parties .....		841
----------------------------	--	-----

---

**VOLUMES V - VI - VII - VIII**

**PART III. — EXHIBITS.**

*(Volume V, folio 1 a 220).*

*Volume VI, folio 221 à 405).*

*(Volume VII, folio 406 à 623.).*

*(Volume VIII, folio 624 à 840).*

**PLAINTIFF'S EXHIBITS FILED WITH DEPOSITION  
OF A. W. ROBERTSON ON DISCOVERY.**

Vols. V, VI, VII, VIII

P-1.—Financial statement of P. C. Shannon Son & Co., for year ending.....	31st Dec. 1928....	700
P-2.—Letter from Ethel Kelly to Angus Wm. Robertson .....	16th Aug. 1928....	659
P-3.—Last Will and testament of Hugh Quinlan, before Perodeau & Pero- deau .....	13th June 1909..	2

PLAINTIFF'S EXHIBITS FILED WITH DEPOSITION  
OF CAPITAL TRUST ON DISCOVERY.

Vols. V, VI, VII, VIII

P.C.-5.—Capital Trust File—Re : Quebec 27th August 1927 Succession Duty .....	to 19th June 1929	471
P.C.-6.—Letter from Capital Trust to J. A. Lazure .....	31st Dec. 1927.....	551
P.C.-7.—Financial Statement of P. C. Shannon Son & Co., for year end- ing .....	31st Dec. 1928.....	700
P.C.-10.—Financial Statement of the Com- pany Quinlan, Robertson & Ja- nin Limited from 1922 to 1927.....		15
P.C.-11.—Letter from A. W. Robertson to Capital Trust .....	21st Feb. 1929.....	719
P.C.-14.—Capital Trust Correspondence 24th July 1928 to with heirs .....	20th Sept. 1928..	641
P.C.-15.—Correspondence Re: Quinlan & 22nd July 1927 to Robertson & Janin Ltd. ....	23rd Oct. 1929....	373
P.C.-16.—Correspondence Re: Peter Lyall 2nd July 1925 to & Sons, Ltd. ....	29th April 1929..	239
P.C.-17.—Letter from A. W. Robertson to Capital Trust regarding sug- gested resignation .....	29th Nov. 1928 ...	698
P.C.-18.—Correspondence Re: Amiesite 4th Oct. 1927 to Asphalt Ltd. ....	13th April 1929..	525
P.C.-20.—Correspondence between Hon. J. L. Perron and Capital Trust 31st Oct. 1928 to Re : Amiesite Asphalt Ltd. ....	1st Nov. 1928..	685
P.C.-21.—Correspondence between Hon. J. L. Perron and Capital Trust 25th April 1928 Re: Peter Lyall & Sons, Limited to 30th April 1929		591



P.C.-22.—Correspondence between Hon. J. L. Perron & Capital Trust, Re: 4th Jan. 1928 to Quebec Succession Duty .....	20th July 1929....	561
P.C.-24.—Correspondence between Hon. J. L. Perron & Capital Trust Re: 1st August to Complains of heirs.....	22nd Sept. 1928..	648
P.C.-25.—Correspondence between Hon. J. L. Perron & Capital Trust Re: 20th Aug. to 22nd Fuller Gravel Limited .....	Aug. 1927.....	462
P.C.-26.—Capital Trust Correspondence 21st July 1927 to Re: Fuller Gravel Ltd. ....	7th Dec. 1928..	315
P.C.-27.—Financial Statement of A. W. Robertson Ltd. ....	31st Dec. 1922..	33
P.C.-28.—Financial Statement of A. W. Robertson Ltd. ....	31st Dec. 1923..	40
P.C.-29.—Financial Statement of A. W. Robertson Ltd. ....	31st Dec. 1924..	142
P.C.-30.—Financial Statement of A. W. Robertson Ltd. ....	31st Dec. 1925..	178
P.C.-31.—Financial Statement of A. W. Robertson Ltd. ....	31st Dec. 1926..	254
P.C.-32.—Financial Statement of A. W. Robertson Ltd. ....	31st Dec. 1927..	552
P.C.-33.—Letter from B. G. Connolly to A. W. Robertson .....	6th Dec. 1928..	699
P.C.-34.—Capital Trust file No. 23 being correspondence Re: A. W. Ro- bertson Ltd., stock .....	19th May 1924 to 15th Oct. 1928..	65
P.C.-35.—Capital Trust file No. 23-1 being correspondence Re: A. W. Ro- bertson Ltd., stock .....	1st June to 22nd Nov. 1927..	283

— XVIII —

Vols. V, VI, VII, VIII

P.C.-37.—Capital Trust file No. 23a re- garding A. W. Robertson Ltd., 19th June to 19th Crookston Quarries .....	Sept. 1928.....	630
P.C.-45.—Capital Trust file No. 408 Re: Audit 1927 .....	22nd Aug. 1928..	660
P.C.-47.—Capital Trust file No. 407. Re: 17th Jan. to 21st Income Tax .....	May 1928.....	564
P.C.-48.—Capital Trust file No. 501 and 6th Aug. to 7th 508 Re: Bequests .....	Sept. 1928.....	652

PLAINTIFFS' EXHIBITS WITH DECLARATION.

P-1.—Authentic copy of last Will and Testament of Hugh Quinlan .....	14th April 1926..	229
P-2.—Inventory of date of death of Hugh Quinlan .....	26th June 1927..	309
P-3.—Financial statements for Period from June 26th 1927 .....		296a
P-4.—Financial statements for Period from June 20th 1927, with cor- rections .....		297

PLAINTIFFS' EXHIBITS AT ENQUETE

P-2.—Ontario Amiesite certificate # 26 for 200 shares, with back of certifi- cate, Hugh Quinlan. — Photo.....	23rd Dec. 1926..	253
P-3.—Ontario Amiesite certificate No. 31 for 199 shares, with back of certi- ficate, A. W. Robertson .....	16th Nov. 1927....	546
P-4.—Ontario Amiesite certificate No. 32 for 1 share with back of certificate, C. J. Malone .....	16th Nov. 1927....	548

— XIX —

Vols. V, VI, VII, VIII

P-5.—Ontario Amiesite statement, 1925. (Photo) .....	147
P-6.—Ontario Amiesite statements .....1925 to 1928.....	186
P-7.—Amiesite Asphalt Ltd., Page 1 of stock book, account Hugh Quinlan (Photo) .....	3rd Sept. 1923... 38
P-8.—Amiesite Asphalt Ltd., copy of transfer No. 3 for 50 shares from Hugh Quinlan to A. W. Robertson ..	22nd June 1927... 292
P-9.—Amiesite Asphalt Ltd., certificate No. 1 for one share in name of Hugh Quinlan .....	3rd Sept. 1923... 37
P-10.—Amiesite Asphalt Ltd., Certificate No. 3 for 49 shares in name of Hugh Quinlan .....	23rd May 1924... 127
P-11.—Amiesite Asphalt Ltd., certificate No. 9 for 200 shares in name of J. H. Dunlop .....	23rd May 1924... 128
P-12.—Amiesite Asphalt Ltd. — Copy of page 2 of transfer book Transfer by J. H. Dunlop to A. W. Robert- son of 200 shares .....	22nd Dec. 1927... 293
P-13.—Minutes. — Amiesite Asphalt Ltd...	5th May 1927... 279
P-14.—Amiesite Asphalt Ltd., Copy of stock account of A. W. Robertson...	3rd Sept. 1923... 39
P-15.—Amiesite Asphalt Ltd., Minutes.....	22nd May 1924 .. 120
P-16.—Minutes of Directors Amiesite As- phalt Ltd. ....	2nd Feb. to 30th August 1928... 571
P-17.—Amiesite Asphalt Ltd., statement ending .....	31st Aug. 1928... 661

P-18.—Macurban Asphalt Limited. Meeting of Directors .....	21st June 1927...	290
P-19.—Macurban Asphalt Ltd. — Statement ending .....	31st Aug. 1928...	666
P-20.—Fuller Gravel Ltd. — Statement for year ending .....	31st Dec. 1927...	557
P-22.—A. W. Robertson Ltd. — Statement for year ending .....	31st Dec. 1928...	709
P-22.—Statement Re: division of assets in A. W. Robertson Ltd., in the form of 4 minutes of meeting from 9th Jan. to 2nd Aug. 1930.....		755
P-23.—Statement, Robertson & Janin Ltd	31st March 1928..	580
P-24.—Change of name of Quinlan, Robertson & Janin Ltd., to Robertson & Janin Ltd., Statement declaration to Registry office of Companies. This is in Court.....	23rd Feb. 1928 ..	575
P-25.—Minutes, Quinlan, Robertson & Janin, Ltd. ....	2nd May and 22nd June 1927..	277
P-26.—Quinlan, Robertson & Janin Ltd., — Certificate No. 8 for 1,150 shares in name of Hugh Quinlan with back of certificate.....	11th May 1925 ...	164
P-27.—Quinlan, Robertson & Janin, Ltd., No. 4 for 1 share in name of Hugh Quinlan, with back of certificate....	11th May 1925... ..	165
P-28.—Quinlan, Robertson & Janin, Ltd., Dividends since .....	26th June 1927 to 30th Oct. 1930....	773
P-29.—Quinlan, Robertson & Janin Ltd., Dividends back dividends declared prior to June 26, 1927.....	30th Oct. 1930... ..	774

P-30.—Quinlan, Robertson & Janin, Ltd., Minutes Re: Acquisition by Quinlan, Robertson & Janin, Ltd., or Robertson & Janin, Ltd., of sub- sidiary Companies .....	21st March and 19th April 1928	575
P-31.—Financial statements for 1929 of Robertson & Janin Paving, Ro- bertson & Janin Bldg., and Mont- real Construction Supply and Equipment Ltd. ....	31st March 1929	722
P-32.—A. W. Robertson Ltd., Minutes .....	29th May 1924 to Oct. 1929.....	52
P-33.—Quinlan, Robertson & Janin, Ltd., and A. W. Robertson, Ltd., pages of ledger, Capital Trust, which have been modified regarding these two companies .....		294
P-34.—National Sand extract Minute .....	2nd Feb. 1929...	714
P-35.—Letter E. W. Wright to J. E. Russell .....	11th Feb. 1929....	718
P-36.—Cheque on Canadian Bank of Com- merce for \$732,083.33 to order of T. J. Dillon, Trustee, signed by Standard Paving and materials, Ltd. ....	2nd Feb. 1929...	716
P-37.—Certified copy of letter A. W. Ro- bertson to J. F. M. Stewart Re : Fuller Gravel .....	8th May 1928...	599
P-38.—Letter A. W. Robertson to J. F. M. Stewart Re : Fuller Gravel.....	9th May 1928.....	600
P-39.—Letter J. F. M. Stewart to A. W. Robertson .....	May 1928.....	601
P-40.—Extract of Minutes, Consolidated Sand Re : Fuller Gravel.....	14th May 1928....	602

P-41.—Letter E. W. Wright to J. F. M. Stewart .....	14th May 1928 ..	603
P-42.—Letter J. F. M. Stewart to A. W. Robertson .....	14th May 1928 ..	604
P-43.—Letter A. W. Robertson to J. F. M. Stewart .....	15th May 1928 ..	604
P-44.—Guarantee agreement signed by A. W. Robertson and Consolidated Sand .....	22nd May 1928 ..	625
P-45.—Cheque to the order of A. W. Robertson for \$180,000, signed by Consolidated Sand .....	22nd May 1928 ..	627
P-46.—Consolidated Sand Ltd. ....	23rd May 1928 ..	627
P-47.—Statement of account between Fuller Gravel and A. W. Robertson .....	25th Oct. 1928 ..	683
P-48.—Letter to Messrs. Tanner & Désaulniers from A. M. Harnwell covering other exhibits filed .....	5th Sept. 1930 ..	771
P-49.—Fuller Gravel.—Stock accounts of A. W. Robertson, Tummon and Consolidated Sand, preferred and common .....	1926-28	213
P-50.—Fuller Gravel.—Share certificates common No. 17 to 22 .....	30th Aug. 1927 ..	494
P-51.—Fuller Gravel. — Shares certificates Preferred No. 04 to 10 .....	30th Aug. 1927 ..	507
P-52.—Ten minutes Fuller Gravel Ltd., from 8th August 1927 .....		443
P-53.—Statement of dividend declared and paid since June 1929 in Macurban Asphalt Ltd. ....	5th Dec. 1930 ..	779

P-54.—Statement of dividends declared and paid since June 28th 1927 in Amiesite Asphalt Ltd. ....	5th Dec. 1930..	780
P-55.—Financial statement of Amiesite Asphalt Ltd., as of March 31st 1927 .....		266
P-56.—Financial statement of Amiesite Asphalt Ltd., as at March 31st 1926..		221
P-57.—Financial statement of Amiesite Asphalt Ltd. ....	1925	148
P-58.—Copy of stock account of J. J. Perreault in Amiesite Asphalt Ltd. ....	1928	574
P-59.—Copy of stock account of J. J. Perreault in Macurban Asphalt Ltd. ....	1928	574
P-60.—Inventory of plant A. W. Robertson Ltd., with values .....	26th June 1927..	295
P-61.—Advertisements Re; Dredging Plant A. W. Robertson Ltd. ....	19th May 1928..	605
P-62.—Statement of interest Re : Ville Lasalle from 1922.....		32
P-63.—Robertson & Janin Ltd., Financial Statement as at March 31st 1929.....		739
P-65.—Minutes Quinlan, Robertson & Janin Ltd.; Re: Dividends Declared 24th Dec. 1925....		173
P-66.—Note in W. A. Quinlan's handwriting .....		282
P-67.—Copy of statement Succession H. Quinlan from 13th Aug. 1927.....		487
P-68.—Statements R. Shurman, Re: Quinlan, Robertson & Janin Ltd., and Amiesite Asphalt, Limited from 1927 .....		275

Vols. V, VI, VII, VIII

P-69.—Malone : Seven minutes Quinlan, Robertson & Janin, Ltd., Re: di- vidends from 31st March 1925 .....	155
P-70.—Details (Malone) Re : \$4,386.67 (Macurban) .....	3rd Dec. 1930. 777
P-71.—Declaration Re : \$6,750.00. Ville Lasalle .....	15th June 1929. 747
P-72.—Agreement Peter Lyall .....	20th Nov. 1925. 173
P-73.—Memorandum Hugh Quinlan and A. W. Robertson .....	2nd July 1926. 239
P-74.—Letter to Mr. Lyall .....	24th Feb. 1926. 218
P-75.—Letter to Mr. W. Lyall .....	8th March 1926. 219
P-76.—Page 4 of ledger Re : 1st original declaration. Photo .....	15th Aug. 1927. 457
P-77.—Letter J. L. Perron, K.C., to E. Beaulieu, K.C. ....	2nd Nov. 1928
P-78.—Extracts from file 2-79 of Per- ron's offices, from 13th Nov. 1928.	686

**DEFENDANT'S EXHIBITS**

**DEFENDANT'S EXHIBITS CAPITAL TRUST  
CORPORATION, WITH PLEA.**

C-1.—Copy of certificate from assistant manager, Bank of Toronto, ad- dressed to Capital Trust Corpora- tion .....	9th July 1927. 302
C-2.—Statement of securities, etc., in safety deposit box in bank of Toronto .....	9th July 1927. 303
C-3.—Copy of letter from A. W. Robert- son to Hugh Quinlan .....	20th June 1927. 289
C-4.—Original Agreement .....	11th June 1925. 167



DEFENDANT'S EXHIBITS CAPITAL TRUST  
CORPORATION AT ENQUETE.

Vols. V, VI, VII, VIII

DC-1.—Advertise copy for sale published in the Montreal "Star" .....	30th Nov. 1929....	751
DC-2.—Stock account H. Quinlan from 1925 .....		166
DC-6.—Letter to Capital Trust Corpora- tion Ltd., from Hon. J. L. Perron, K.C. ....	17th April 1930..	770
DC-7.—Letter to Hon. J. L. Perron, K.C., from Capital Trust Corporation Ltd. ....	12th March 1930	769
DC-8.—Four copies of declaration to the Revenue & Statements of assets from 18th July 1927.....		406
DC-8a.—Copy of statement Succession H. Quinlan from 13th Aug. 1927.....		487
DC-9.—Transfer Tummon .....	26th March 1928..	578
DC-10.—General Indemnity agreement ...	6th Aug. 1925..	170a
DC-11.—Indentures between A. W. Ro- bertson & Janin & Fidelity Ins. Co. of Canada.....	23rd Oct. 1928..	681
DC-12.—Amount of Bond from Aug. 1925.....		171

DEFENDANT'S EXHIBITS AT ENQUETE  
OF A. W. ROBERTSON.

DR-1.—Letter from W. A. Robertson to Mr. H. Quinlan .....	20th June 1927....	286
DR-2.—Copy of letter .....	20th June 1927..	287

DR-3.—Original of Agreement between H. Quinlan, A. R. Robertson & A. Janin .....	11th June 1925..	167
DR-4.—Correspondence between Hon. J. L. Perron & A. W. Robertson from 22nd Aug. 1927.....		464
DR-5.—Cheque to A. W. Robertson signed by S. McCord & Co., Ltd. ....	27th Sept. 1927..	524
DR-6.—Letter and cheque .....	25th May 1928 ..	628
DR-7.—Letter to MM. S. McCord & Co., Ltd., from G. M. Barnes, manager Royal Bank, Toronto.....	1st Dec. 1930..	777
DR-8.—Cheque to A. W. Robertson, signed by Geo. Rayner.....	7th Sept. 1927..	523
DR-9.—Slip of deposit.....	26th May 1928 ..	630
DR-10.—Slip of deposit .....	14th Nov. 1928....	698
DR-11.—All cheques given to Robertson by Tummon from 5th Sept. 1927.....		521
DR-12.—Letters Tummon and Robertson from 20th May 1928 .....		624
DR-13.—Copy of deposit Savings account from Bank book Tummon.....	5th Dec. 1930..	778
DR-14.—Resolutions. — Ontario Amiesite Ltd., from 16th May 1927.....		280
DR-15.—Summary of Financial Statements Ontario Amiesite, Ltd. ....	31st March 1927	272
DR-16.—Summary of financial Statements — Amiesite Asphalt Ltd. ....	31st March 1927	273
DR-17.—Summary of financial Statements, Quinlan, Robertson & Janin Ltd. ....	31st March 1927	274

— XXVII —

Vols. V, VI, VII, VIII

DR-18.—Statement of guarantee.....	26th Sept. 1928..	677
DR-19.—Same as exhibit P-20 at Enquete Fuller, Gravel Ltd. — Statement for year ending.....	31st Dec. 1927....	557
DR-21.—Statement of dividends paid by A. W. Robertson from 8th Feb. 1926 .....		217
DR-22.—Statement of dividends from 9th Jan. 1930 .....		753
DR-23.—Copy of letter M. J. O'Brien.....	17th Nov. 1925....	172
DR-24.—Statements showing payments to Mr. J. O'Brien Ltd., from 20th July 1926 .....		252
DR-25.—Details of dividends from 8th Feb. 1926 .....		216
DR-26.—Two receipts 22nd June & July 1926 .....		237
DR-27.—Letter signed H. Quinlan to the manager of Bank of Toronto.....	22nd June 1926..	238
DR-28.—List of Bonds with correspond- ence from 5th Feb. 1924.....		42
DR-29.—Letters (Potter) from 27th Sept. 1928 .....		679
DR-30.—Letter G. M. Kennedy to Petrie, Raymond & Co. ....	28th March 1929	721
DR-31.—Copy of release .....	28th Nov. 1930 ..	776
DR-32.—Copy of Guarantee.....	Jan. 1927.....	262
DR-33.—Copy of Draft for \$125,000.00.....	29th Dec. 1927....	550
DR-34.—Copy of Draft for \$125,000.00.....	28th Jan. 1928....	571

— XXVIII —

Vols. V, VI, VII, VIII

DR-35.—Four signatures of V. Kerr. Photo .....	570a
DR-36.—Letter to A. W. Robertson signed Capital Trust Corporation.....	25th Sept. 1928. 676
DR-37.—Meeting of shareholders A. W. Robertson Ltd. ....	4th Nov. 1919. 10
DR-38.—Minutes .....	3rd Aug. 1925. 169
DR-39.—Meeting of Directors A. W. Robertson Ltd. ....	11th March 1929 720
DR-40.—Letter Dillon .....	4th Feb. 1929. 717
DR-41.—Correspondence Collins & Ro- bertson from 30th Oct. 1924 .....	129
DR-42.—Sketch of Property.....	140a
DR-44.—Sketch of Crookston's Property.....	140b
DR-45.—Correspondence Stewart and Ro- bertson from 27th April 1928.....	593
DR-46.—Seven letters of Capital Trust and Robertson from 23rd Aug. 1927 .....	466
DR-47.—Six letters Capital Trust and Ro- bertson from 19th Sept. 1928.....	671
DR-48.—Six letters from Capital Trust and A. W. Robertson from 16th Aug. 1927 .....	458
DR-49.—Cheque .....	20th June 1927. 288
DR-50.—Cheque .....	20th June 1927. 289
DR-51.—Four letters Ontario Amiesite Ltd., from 12th Oct. 1927.....	544
DR-52.—Letter addressed to Roy Miller.....	19th Sept. 1927. 523

**VOLUME VIII**

**PART IV. — JUDGMENTS & NOTES**

Vol. VIII

Jugement de la Cour Supérieure rendu par l'Hon. juge Martineau, le 6ième jour de février 1931.....	781
Notes du Juge.....	787
Jugement de la Cour du Banc du Roi (en appel) ..... 30 Déc. 1932.....	807
Notes of the Honourable justice Howard.....	816
Notes de l'honorable juge St-Germain.....	820

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DOMINION OF CANADA

**In the Supreme Court of Canada**  
(OTTAWA)

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On appeal from a Judgment of the Court of King's Bench, in appeal.

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**Angus William Robertson,**

(Defendant in the Superior Court and Appellant  
in the Court of King's Bench, in appeal),

**APPELLANT.**

20

— and —

**Ethel Quinlan, & vir, & al,**

(Plaintiff's in the Superior Court and Respondents  
in the Court of King's Bench, in appeal),

**RESPONDENTS.**

30

— and —

**Capital Trust Corporation Limited,**

(Defendant in the Superior Court),

— and —

40

**Dame Catherine Ryan, & al,**

**MIS-EN-CAUSE.**

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**THE CASE**

**VOL. II. — PLAINTIFF'S EVIDENCE ON DISCOVERY (continued).**

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*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

And on this twenty ninth day of October, in the year of Our Lord One thousand nine hundred and twenty nine personally came and reappeared the said witness Angus W. Robertson already sworn as a witness on behalf of Plaintiffs on discovery,  
10 who continues his examination as follows:—

By Mr. Masson:—

Q.—Who were the shareholders of the Amiesite and the Maccurban when you transferred your shares, all the shares of those companies, to W. P. Macdonald Company?

A.—I was a one third owner of the stock — I think it stood at the time in Mr. Leamy's name, but I am not sure just now. Mr. Janin had the other two thirds in his control I do not know  
20 just the names they were in, or whether they were in his name or not. I think his brother had some of them.

Q.—Before Mr. Janin, Mr. Leamy and yourself were shareholders of these companies do you know the names of the other shareholders?

A.—E. S. Miles held mine.

Q.—Were there any other shareholders in those companies?

A.—There must have been three or four other nominal shareholders.

Q.—When you obtained possession of the shares, or the share certificates, of Mr. Quinlan, in the Amiesite Company, how many  
30 shares had you in your name in the Amiesite Company?

A.—Fifty, the same as Mr. Quinlan, in my own personal name.

Q.—Did anyone besides Mr. Quinlan transfer to you, or give you, any share certificates in the Amiesite Company after the death of Mr. Quinlan, and who was the nominee of Mr. Quinlan?

A.—Mr. J. H. Dunlop.

Q.—How many shares did he transfer to you?  
40

A.—200, I think. I am not absolutely certain within a share or two, but Mr. Quinlan and I had 250 shares each for ourselves or our nominees.

Q.—So, while Mr. Quinlan was alive you, Mr. Quinlan and Mr. Janin were the holders of 250 shares each of the Amiesite Company?

A.—No, just Mr. Quinlan and myself — not Mr. Janin.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—After the death of Mr. Quinlan you became the possessor of 250 shares of the Amiesite Company — that is, around 200 from Dunlop, and 50 from Mr. Quinlan?

A.—Yes.

10 Q.—What did you do with those shares?

A.—Sometime afterwards I made an arrangement with Janin whereby I gave him some of those shares, and some of the Ontario Amiesite. I do not know just the number of each, but he assumed the obligation of the Ontario Amiesite with me.

Q.—And, you transferred a certain number of shares to Mr. Janin?

A.—I did. I would have to look it up, and see the certificates, to see just what was done at the time. I do not know off-hand now just what certificates I gave him.

20 Q.—Is there any possibility of your finding those certificates?

A.—The only way would be to go to Ontario and ask the people who have them there. The book is in the custody of the Secretary, I presume.

Q.—You know I am speaking about the Amiesite Asphalt Limited, not the Ontario Amiesite Asphalt Limited?

A.—I had shares in one Amiesite Company here, so did Mr. Quinlan: and we had shares in the Ontario Amiesite. Those were all the shares Mr. Quinlan and I had.

30 Q.—Let us speak about the Amiesite Asphalt Company, Limited, and let us leave aside for the moment the Ontario Amiesite Asphalt Limited. When Mr. Quinlan died you became the possessor of 250 shares of Amiesite Asphalt, Limited?

A.—Yes.

Q.—That is, about 200 shares from Mr. Dunlop, who was the nominee of Mr. Quinlan and 50 shares from Mr. Quinlan?

A.—Yes.

40 Q.—Then, you say, you transferred a part of those shares to Mr. Janin?

A.—That is my recollection, yes.

Q.—Did you transfer those shares, or any part of them, to someone else?

A.—No, absolutely not.

Q.—Do you swear that?

A.—I swear positively I did not transfer the shares to anybody but Janin or his nominee. I may have transferred to his nominee. I will find that out by going to Ontario. I cannot find it out unless I get it from the Amiesite here. I could go to Ontario and find out.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Where is the office of the Amiesite Company here?

A.—I do not know. Macdonald has it.

Q.—It has an office in Montreal?

A.—Yes, there is an office here somewhere.

10 Q.—Did you transfer any of those shares of the Amiesite Asphalt, Limited, to your son?

A.—I remember now. 200 shares of the Amiesite Company of mine were carried originally by my brother, in Ontario.

Q.—What was the name of your brother?

A.—F. D. Robertson.

Q.—How many shares did he have?

A.—200, I think, or thereabouts. I am speaking from memory. He had them afterwards.

Q.—Did you make any transfer?

20 A.—Yes. Subsequently, it seems to me, I transferred some shares I had to each of my two sons.

Q.—Did you transfer all your shares to each of your two sons?

A.—No.

Q.—Did you make any other transfer to someone else?

A.—No, I made no transfers of shares, that I can recollect, to anybody but my two sons.

Q.—On the same day as you made the transfers to your two sons did you not make some transfers to someone else?

30 A.—I do not remember that I did.

Q.—Did you make any transfer to Mr. Janin?

A.—I said I transferred some of them to Janin, yes.

Q.—And, to no one else?

A.—I do not think so. I may have, but I do not believe it.

Q.—At a certain time, when the deed which was entered into between the shareholders of the Amiesite Asphalt, Limited, and the Maccurban Asphalt Limited, and W. P. Macdonald, the shareholders transferred to you all their shares so that the transaction took place between yourself and W. P. Macdonald Company?

40 A.—As a Trustee, yes.

Q.—For whom were you Trustee at that time?

A.—Janin and myself.

Q.—You were not the Trustee of your sons?

A.—I presume if the stock still stood in their names I would be. I do not remember the details of those things.

Q.—Do you remember the name of any other shareholder for over 200 shares in the Amiesite Asphalt, Limited?

A.—All I know about is Janin's nominees.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Who were Janin's nominees?

A.—My recollection is Hepburn was one; and I think his brother, but I am not positive of that now.

Q.—Did Hepburn make any transfer of his shares?

10 A.—I do not know. He did not make any to me.

Q.—Did it not happen that yourself personally and Hepburn made a transfer of a considerable number of shares in the Amiesite Asphalt, Limited, to someone else?

A.—I never made any transfer, that I remember, except those I have just told you of. I never had anything to do with Hepburn.

Q.—Did you have anything to do with someone else than your two sons and Albert Janin in reference to the transfers of the shares of the Amiesite Asphalt, Limited?

20 A.—All I know is this: that any certificates which were given to me were transferred to Macdonald and Janin had one half of them and I had about one quarter. That number would be changed a little probably just at the transfer time.

Q.—Did Amiesite Asphalt, Limited, and Maccurban Asphalt, Limited, pay dividends?

A.—Yes.

Q.—You were President of those companies?

A.—No, I was not President of them.

Q.—Were you a director of those companies?

30 A.—I was never a director of the Maccurban Company.

Q.—But, you were a director of the Amiesite Company?

A.—Yes: both Mr. Quinlan and I. I asked Mr. Janin, and he said we were both directors.

Q.—By whom were the cheques signed in reference to the dividends of the Amiesite Asphalt, Limited?

A.—I do not know.

Q.—Did you personally sign any cheques for dividends of those companies?

40 A.—I do not remember having signed one. I may have signed one, but I do not remember having done so.

Q.—Is there any way of your ascertaining the fact whether you transferred any shares in the Amiesite Asphalt, Limited, to someone else than your sons and Albert Janin?

A.—I could ask.

Q.—Whom would you ask?

A.—I would have to ask Macdonald.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Is it not true you made a transfer of shares to J. J. Perrault?

A.—I never did. Perrault is the manager of our Building Department, and he was the nominee, I think, for some shares  
10 for Mr. Janin.

Q.—In which company?

A.—In the Maccurban Company. I do not know that he was ever in the Amiesite Asphalt.

Q.—Is it not true that you personally transferred a certain number of shares to J. J. Perrault?

A.—I do not remember that. I do not think so. In what company?

Q.—Amiesite Asphalt, Limited?

A.—I do not think so.

20 Q.—I understand Mr. J. J. Perrault was a shareholder of the Maccurban Asphalt, Limited, to your knowledge?

A.—I think he was a shareholder.

Q.—How many shares did he hold?

A.—I think he carried part of Janin's shares.

I do not think I ever was a director or an officer of the Maccurban Company. You see, we had eight or nine of those companies, and I might be in one or another nominally, but I do not think I ever was a director of the Maccurban Company.  
30

Q.—You were not only nominally in the Amiesite Asphalt, Limited, and the Maccurban Asphalt, Limited?

A.—No, I was a shareholder.

Q.—And, to your knowledge J. J. Perrault was a shareholder, as nominee for someone else?

A.—I will not say that. I think he was in the Maccurban Company.

Q.—Only in the Maccurban Company?

40 A.—Yes.

Q.—And you are positive you personally never made any transfer to J. J. Perrault?

A.—I do not remember ever having made any.

Q.—So, you are not sure. It is possible you may have made one?

A.—I may have, but I doubt it very much.

Q.—Is it not true that about the same time as you made the transfer to your sons and to Mr. Janin you made one to Mr. Perrault?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I may have, but I doubt it. I may have, for Janin, but I doubt it.

Q.—You are positive about the fact that J. J. Perrault was a prete nom of someone else?

10 A.—Yes.

Q.—In the Amiesite Asphalt, Limited, and the Maccurban Company?

A.—In the Maccurban Company.

Q.—If he was a shareholder of the Amiesite Asphalt Limited he was there as the nominee for someone else?

A.—I would think so.

Q.—And, according to you, he was the nominee of Albert Janin in the Maccurban Asphalt, Limited?

A.—Not Albert Janin: Alban Janin.

20 Q.—In the Maccurban Asphalt, Limited?

A.—Yes. If he was in there, that was what he was.

Q.—And, according to you, Mr. Janin's interest, by his nominees or by himself, in the Amiesite Asphalt, Limited, and the Maccurban Asphalt, Limited, was two thirds of all the shares of those companies ?

A.—No.

Q.—Approximately?

A.—Of the Maccurban, I think.

Q.—Two thirds?

30 A.—Yes.

Q.—And, what about the Amiesite Asphalt, Limited? One third?

A.—No. He had one half of the Amiesite, and he had some of my stock later. — I do not know just how much. About one half — I am not sure as to just a few shares.

Q.—There were 1000 shares of the Amiesite Asphalt, Limited?

A.—Yes, that is my recollection.

40 Q.—And, there were 1,000 shares in the Maccurban Asphalt, Limited?

A.—I think so.

Q.—At the time of the transaction which took place between yourself in your personal capacity and in your capacity as Trustee for someone else, in reference to the Amiesite Asphalt, Limited, there were only two shareholders in the company; yourself and Mr. Janin?

Witness:—In the Amiesite Asphalt?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Counsel:—Yes.

A.—With my nominees.

Q.—With the nominees for yourself and for Mr. Janin?

10 A.—Yes.

Q.—So, the parties interested in the transaction with Macdonald were yourself and Janin?

A.—Yes.

Q.—And, yourself and Janin were holding in your name, or in the names of your nominees, all the shares of the Amiesite Asphalt, Limited?

A.—Yes.

Q.—No one else was interested in that company, apart from yourselves and your nominees?

20 A.—No one else, to any extent. There may have been a few shares out, but if there were I had nothing to do with them. I knew nothing about them. You understand I was not President of the Amiesite Asphalt Company.

Q.—But, as a shareholder, and at a certain time as Trustee for yourself and the Trustee for the other shareholders, you knew as well as if you had been President of the Company just what was taking place, and who were the shareholders of the Company?

A.—I knew what I did with the money.

30 Q.—You knew to whom it was to be given?

A.—To be paid, yes.

Q.—When you received the money you gave two thirds of it to Mr. Janin?

A.—Yes.

Q.—And, kept one third for yourself?

A.—I did.

Q.—This was done in the Amiesite Asphalt, Limited, and in the Maccurban Asphalt, Limited?

A.—Yes.

40 Q.—After you paid some money to Mr. Janin, out of the money which was paid to you by W. P. Macdonald Company, did Mr. Janin give you back any money — in reference to that transaction?

A.—I do not remember that he did. I think the cheques that passed between us squared up the account.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You are not sure?

A.—Not definitely sure unless I asked him, and I will ask him. My opinion at the present time is that he never gave me back any money. We may have passed cheques between us in  
10 straightening up our accounts.

Q.—Out of the proceeds of the sale to W. P. Macdonald Company he did not give you back any amount of the two thirds of the money?

A.—Not that I remember.

Q.—You are not sure?

A.—I am not sure, but I do not think so.

Q.—You do not remember the number of shares of Amiesite Asphalt, Limited, you transferred to your two sons?

A.—No, I do not.

20 Q.—You do not remember the number of shares you transferred to Mr. Janin?

A.—No.

Q.—And, you do not remember about having transferred any shares in Amiesite Asphalt, Limited, to J. J. Perrault?

A.—If I transferred them to J. J. Perrault Mr. Janin asked me to do it. But, I thought I transferred them to Mr. Janin. I do not recollect that.

Q.—You transferred certain shares in the Amiesite Asphalt, Limited, to Hepburn?

30 A.—I do not remember having transferred any shares, to Hepburn.

Q.—I understand at a certain time Mr. Hepburn was interested in the Amiesite Asphalt, Limited, to the extent of a considerable number of shares?

A.—Yes, I believe so.

Q.—And when the transaction with W. P. Macdonald Company took place he was not a shareholder of Amiesite Asphalt, Limited?

40 A.—I am not sure as to that now.

Q.—If he had been a shareholder you would have been his nominee when the transaction took place?

A.—The shares would have been endorsed on the backs and handed to me by Mr. Janin.

Q.—Did not J. J. Perrault transfer to you a certain number of share certificates in Amiesite Asphalt Limited and in Maccurban Asphalt, Limited?

A.—He transferred to me whatever shares he held in the Maccurban Company for Mr. Janin.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—So, J. J. Perrault transferred to you a certain number of shares in the Maccurban Asphalt, Limited?

A.—I am not sure as to that. If he did that at the time the sale was made he would have written his name on the backs of the certificates, and I would have handed them to Macdonald.

10 Q.—Did he not do the same thing with the Amiesite Asphalt, Limited?

A.—I do not remember. If he had shares at the time it would have had to be done to consummate the sale.

Q.—As a matter of fact, is it not true the shareholders of the Amiesite Asphalt, Limited, were the same as those of the Maccurban Asphalt, Limited, during the year 1928?

A.—I do not know that. I would have to look it up to see.

Q.—Both Companies had their offices at the same place?

20 A.—Yes.

Q.—They had the same staff?

A.—No.

Q.—What difference was there in the staff?

A.—Of course they were run as two separate institutions absolutely.

Q.—But, those working on the books of one of the companies were the same as those working on the books of the other?

A.—To some extent, I suppose. I do not know.

30 Q.—Were the employees of both companies the same persons?

A.—My knowledge of it is they were operated as two absolutely separate entities.

Q.—But, they were operating at the same place? The Head Offices of both companies were.....

A.—(Interrupting). In the same building.

Q.—And, on the same floor?

A.—I presume so.

Q.—In the same room?

A.—I presume so.

40 Q.—Not only that: as a matter of fact, they were in the same place?

A.—They were all in the same building.

Q.—And, they had the same telephone?

A.—They had the same switchboard girl.

Q.—When anyone telephoned from outside to the Maccurban Asphalt, Limited, would they not call the same number as if they were calling Amiesite Asphalt, Limited?

A.—If they called up our Head Office of Quinlan Robertson & Janin they would get the same number.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—So, the telephone number of Amiesite Asphalt, Limited, and of Maccurban Asphalt, Limited, was the same as that of Quinlan, Robertson & Janin, Limited?

10 A.—If they were telephoning to the Head Office. But each of them had telephones outside.

Q.—Which were connected with the switchboard of Quinlan Robertson & Janin, Limited?

A.—No, they were independent telephones.

Q.—What were the telephone numbers of those companies?

A.—I do not remember just now. The Maccurban Company operated at St, Vincent de Paul.

20 Q.—But apart from the scene of operations where they were working, they had a Head Office, and the telephone numbers of the Head Offices of Amiesite Asphalt, Limited, and Maccurban Asphalt, Limited, were the same?

A.—They all came in on the same line if they telephoned to the Head Office.

Q.—That means the telephones were the same, and the employees were the same persons?

A.—I am not just positive that the bookkeeping was done by the same staff. I am not positive whether certain men were on the payroll of the Maccurban and certain men were on the payroll of the Amiesite. Whether or not this was the case was a matter of administration, which was looked after by Mr. Janin.

30 Q.—In other words, the same employees who were working for all your companies had their salaries charged sometimes to one company, and other times to another, and they were transferred from the books of one company to the books of the other?

A.—I presume that was the way it was operated.

Q.—So, both companies were operated by the same staff? The same stenographers, the same telephone, and so on?

A.—To a great extent, yes.

40 Q.—Does it not follow that the shareholders of both companies were the same?

A.—Not at all. I had two thirds of the stock of Quinlan Robertson & Janin, the parent company, and Mr. Janin never had but one third. The expenses were pro rated.

Q.—Am I right in saying that in 1928 you transferred to A. G. Robertson, one of your sons, 42 shares of Amiesite Asphalt, Limited?

A.—I transferred some shares to him. I think it would be about 42 shares.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And, you transferred 41 shares to D. Robertson, another of your sons?

A.—I transferred something like that to him yes.

Q.—How many shares did you transfer to Albert Janin?

10 A.—I do not remember. I would have to see the books to know.

Q.—Is it to your knowledge that a man named Hepburn transferred his shares in the Amiesite Asphalt, Limited, to J. J. Perrault?

A.—He may have. I do not know.

Q.—Is it not true that at the time of the transaction between yourself in your personal capacity and in your capacity as Trustee for the other shareholders of the Amiesite Asphalt, Limited, you held 333 shares?

20 A.—Yes, I think about that. Through my nominees.

Q.—Mr. Janin held 333 shares?

A.—Mr. Janin held all the rest, through himself and his nominees. That is my recollection.

Q.—Is it not true that before the shareholders of Amiesite Asphalt, Limited, transferred their shares to you for the purpose of the transaction which took place between yourself and W. P. Macdonald Company the names of those who appeared in the books of the Amiesite Asphalt, Limited, as shareholders were the following:—

30

Yourself, 333 shares;

Alban Janin, 333 shares;

J. J. Perrault, 333 shares?

40 A.—It may be. I have forgotten. If there were, they were Mr. Janin's shares. The shares held by J. J. Perrault were Alban Janin's, — at least, I assume so. I do not know what the arrangements were between Alban Janin and Mr. Janin.

Q.—You seem to be very well acquainted with what took place between Mr. Janin and his nominees?

A.—I only know what he told me.

Q.—Did Mr. Perrault tell you anything?

A.—No.

Q.—Who gave you the share certificate endorsed by Mr. Perrault?

A.—Mr. Janin, I think.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You are not sure?

A.—I know it was not Perrault.

Q.—Did you ever meet Perrault?

10      Witness:—J. J. Perrault?

Counsel:—Yes.

A.—He has been our Building Manager for five years. I meet him regularly. He is in the office every day.

Q.—Did you personally, or did Mr. Janin, or did Mr. Quinlan, or did any other shareholders who were the original subscribers to the capital stock of Amiesite Asphalt, Limited, pay anything for the shares?

20      A.—If we did it was a nominal amount. My recollection is we paid nothing for them.

Q.—And, it was the same thing with the Maccurban Company?

A.—Yes. I never paid anything for my shares.

Q.—And, Mr. Janin did not pay anything?

A.—Mr. Janin, of course, is the patentee of Maccurban, and he invited me in to join him. He is the man who conceived the idea of the Maccurban patent.

30      Q.—Was he one of the incorporators of the Maccurban Company?

A.—I do not know that. All I know is he told me it was his patent.

Q.—Janin's patent?

A.—Yes.

Q.—From whom did Janin acquire the patent?

A.—From himself.

Q.—Is he the inventor?

A.—Yes.

40      Q.—Were not the patent rights for the Province of Quebec transferred to him by someone else?

A.—If they were, it was he who conceived it. I do not know how he carried it at all. I do not know the details.

Q.—Is it not true the patent came from the Amiesite Company?

A.—No.

Q.—Is it not true it came from the original patentee, who was not Janin?

A.—My knowledge is that Janin conceived the patent himself. That is all I know about it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Were there any transfers of patents made from Mr. Janin to the Maccurban Asphalt, Limited?

A.—I think so. I think he probably gave them the privilege of the use of it.

10 Q.—In writing?

A.—I do not remember.

Q.—Was Mr. Janin the registered owner of that patent in Ottawa?

A.—I do not know that.

Q.—Is he the one who made the application for the patent rights?

A.—I do not know that. I do not know anything about the details of it at all.

20 Q.—How can you say Mr. Janin is the original patentee, if you do not know the origin of it?

A.—He told me so. He told me he was the man who invented the process for the patent.

Q.—When did he tell you that?

A.—Sometime about the time he got it.

Q.—Is it not true the consideration of the issuing of nearly all the shares of the Amiesite Asphalt, Limited, stock was not a patent that was transferred to that company?

A.—I would think so. I would think we had to give some consideration for the shares that were given to us.

30 Q.—And, the consideration was the patent?

A.—The consideration would be the privilege of using the patent in Canada, or something of that character.

Q.—Is it not true the consideration of the issuing of all the shares, or most of the shares, of the Maccurban Asphalt, Limited, was not a patent that was transferred by Janin to the Company?

A.—I would think so. I told you I paid nothing for my one third, and Janin was the patentee or was the man who conceived the material.

40 Q.—Is it not true that to your knowledge the consideration of the issuing of the shares of the Maccurban Asphalt, Limited; was not a patent that was transferred by Janin, or someone else, to the Company?

A.—I should think so. I believe so.

Q.—You are not sure?

A.—I told you I never paid anything for my shares.

Q.—And, you know no other shareholders paid anything for their shares?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I do not know it, but I do not believe they did; because Janin was the man who got it up, and he was the whole thing.

Q.—Are you ready to swear Mr. Janin was the incorporator of the company?

10 A.—No, but I am ready to swear I believe Janin to be the man who conceived the Maccurban process.

Q.—Was it the same as the Amiesite?

A.—No.

Q.—What difference was there between the two?

A.—I am not a technician. I know nothing about it. I know if they were the same he could not have got a patent on his material.

Q.—Did he get a patent on the Maccurban process?

A.—If he did not somebody did it for him.

20 Q.—You are sure a patent was issued for the Maccurban process?

A.—He told me so. I am not sure.

Q.—So, you do not know?

A.—No.

Q.—The Maccurban Asphalt, Limited, was incorporated after the Amiesite Asphalt, Limited?

A.—Yes.

Q.—The Amiesite Asphalt Limited, was doing the same work as the Maccurban Asphalt, Limited?

30 A.—They were both engaged in road contracting.

Q.—What interest did Mr. Janin and yourself, or any other shareholder of the Amiesite Asphalt, Limited, have in becoming shareholders in the Maccurban Asphalt, Limited, which would be a competitor of the Amiesite Asphalt, Limited, in which you were already shareholders and directors?

A.—Simply enlarging your field of operation with something they thought was better.

40 Q.—Would not the incorporation of Maccurban Asphalt, Limited (which was engaged in the same kind of work as the Amiesite Asphalt, Limited, and expose that company to retrogress?

A.—I do not know. They were two different propositions. The Maccurban proposition was a separate institution.

Q.—But, it was organized to do the same kind of work as the Amiesite Asphalt, Limited, was doing?

A.—In road building. The same as a dozen other processes.

Q.—What was the purpose of incorporating the second company, or becoming shareholders or directors of the second com-

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

pany (the Maccurban Company) which company would be a competitor of the Amiesite Asphalt, Limited?

A.—For the purpose of making more money.

10 Q.—The Amiesite Company would have got the work the Maccurban Company got?

A.—It might not have.

Q.—If Mr. Janin was the patentee could he not have transferred the patent to the Amiesite Asphalt, Limited, or could he not have kept it for himself?

A.—That is his business. I did not own any of the patent.

20 Q.—Mr. Janin, one of the shareholders, who held two thirds of all the shares of the Amiesite Asphalt, Limited, and who was the owner of the patent which, according to you, was transferred to the Maccurban Asphalt, Limited. That being the fact, is it not true that it exposed the Amiesite Asphalt, Limited, to loss through the fact that Maccurban Asphalt, Limited, was incorporated?

A.—It is true the Maccurban Company might make competition with the Amiesite Company.

Q.—What might make competition?

A.—The Maccurban Company. Irrespective of who owned it.

Q.—But, the process was owned by Mr. Janin?

A.—Yes.

30 Q.—So, all you had to do in order to avoid competition, which might have been disastrous for the Amiesite Company, was to keep Janin's patent, or to acquire it. That being so, why did you incorporate the Maccurban Asphalt, Limited?

A.—I did not incorporate it.

Q.—Why was it incorporated?

A.—I had nothing to do with that at all.

Q.—But, you were a shareholder?

A.—Yes.

40 Q.—What interest did you, or Mr. Janin, or any other shareholder of Amiesite Asphalt, Limited, have in incorporating the Maccurban Asphalt, Limited, which was a competitor of the Amiesite Asphalt, Limited?

A.—The same interest I would have in doing into any other company now if I thought I might make money out of it in road building.

Q.—Would you have insisted upon incorporating a company which might diminish the work and the profits of another company in which you were interested to a considerable extent?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—It depends. If the new company had something better, and I saw a better field for it, I would.

Q.—So, according to you the Maccurban Asphalt process was better than that of the Amiesite Asphalt, Limited?

10 A.—Not according to me.

Q.—But, that was the reason you just gave for becoming a shareholder in the other company, and that reason does not stand so far as your becoming a shareholder of the Maccurban Asphalt, Limited, while you were already a shareholder of Amiesite Asphalt, Limited?

A.—I did not say that.

Q.—You gave that as an example?

A.—I said if an opportunity presented itself for me to get in another company, out of which I could make more money, that I  
20 was a free agent and could go in any other company I wished to make money in, as against any other company with which I was already associated.

Q.—But, that was not a reason which contributed to your becoming a shareholder of the Maccurban Asphalt, Limited?

A.—That was my privilege. My privilege is to go into any company I wish, so long as I have the money with which to pay my way. And, that is what I am doing today. As a matter of fact, so far as that is concerned, we are laying paving of various  
30 kinds today in Ontario.

Q.—Is it not true that inasmuch as you were a director of Amiesite Asphalt, Limited, your duty was to avoid any competition which might have been disastrous to Amiesite Asphalt, Limited, which competition would have come from the Maccurban Asphalt, Limited?

Mr. Beaulieu:—That is a question of law, which the witness is not bound to answer, and I suggest to the witness he should not answer it. I have not entered any objection on questions of fact,  
40 but the matter of duty is a question of law, and therefore one for the Court to decide.

Mr. Masson:—It is a question of fact.

Mr. Beaulieu:—My contention is that it is a matter of law, and I state to the witness that he is not bound to answer unless he is directed by the Court to do so.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Masson, Continuing,

Q.—The Amiesite Asphalt, Limited, was the owner of a special process also?

10 A.—They were the licensees, I think.

Q.—From whom did they get the license?

A.—Hepburn, or some of his companies, I believe. I do not know.

Q.—Is that the same Mr. Hepburn who had shares in the Amiesite Asphalt, Limited?

A.—Yes. I am not sure who were the owners of the patents. We were merely the licensees, as I understand it.

Q.—Were you licensed in the case of Maccurban Asphalt, Limited?

20 A.—I should think so. I do not remember.

Q.—And in the case of the Maccurban Company the owner of the patent rights was Mr. Janin?

A.—If he was not the owner, he was the man who conceived it: that is all I know.

Q.—What do you mean by Mr. Janin conceiving the patent for the Maccurban process?

A.—The man who invented it. That is my understanding.

Q.—From what did you understand that?

A.—From him.

30 Q.—He told you that?

A.—Yes.

Q.—That he invented the process?

A.—Yes.

Q.—Did you believe Mr. Janin when he told you he invented the process?

A.—Certainly I did.

Q.—Is Mr. Janin a chemist?

40 A.—He does not require to be a chemist to get up any process for making roads. Do you know that the most used process in Ontario is claimed to be the work of an ordinary engineer? That is the hot mix which the Ontario Government is using to the exclusion of nearly every other type of pavement of that kind.

Q.—What kind of an engineer was he?

A.—Just an ordinary road engineer.

Q.—Was Mr. Janin a road engineer?

A.—I think so.

Q.—You are not sure?

A.—I believe so.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You are not sure?

A.—I am sure he is. He is a road engineer, in my estimation.

Q.—Where did Mr. Janin get his training in connection with the construction of roads before he came with you?

10 A.—I do not know. All I know he is a very capable road engineer.

Q.—Has he any certificate?

A.—I do not know anything about that.

Q.—Has he any scientific training in regard to road construction?

A.—I do not know anything about that. I know what he does in the way of producing results.

20 Q.—So, the only training he has in regard to constructing roads comes from his relations with you since he has been with you in the construction of roads?

A.—I am not prepared to say that. He has been with us about twenty years altogether, and in that time a man would learn a great deal.

Q.—To the extent of inventing a process like Maccurban?

A.—I should think so.

Q.—Is he the only one in your company, who has been with you or associated with you and Mr. Quinlan for a long time, and who has invented a process for the construction of roads?

30 A.—We have employees in subordinate capacities who have been with us quite a while.

Q.—And, did they invent any process like Maccurban?

A.—I do not know. That never has been brought to my attention.

Q.—If they had invented something it would have been brought to your attention and not to the attention of another competing company?

A.—It might.

40 Is it not a fact that the roadway engineer in the City Hall has a patent on material which he contends is much superior to Amiesite and which is almost the same as Amiesite?

Q.—To your knowledge did the Amiesite Asphalt Limited undertake the construction of any roads?

A.—They have been contracting for some years.

Q.—Did the Maccurban Company contract also?

A.—Yes.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Can you mention some of the contracts taken by the Maccurban Company?

A.—They are Provincial roads. I do not know what roads they are.

10 Q.—Can you locate some of them, taken at the beginning of the company?

Witness:—Which company?

Counsel:—The Maccurban Asphalt Limited.

A.—I would rather not make a statement about the roads, because I would have to do so subject to making enquiries. I know they were contracting all around the province.

20 Q.—Did it happen the Amiesite Asphalt, Limited, and the Maccurban Asphalt, Limited, offered tenders at the same time for the construction of the same road?

A.—Mr. Janin is the man who handled all the tenders of both companies.

Q.—And, of your own knowledge you do not know whether tenders were made by both companies for the same work at the same time?

A.—I know I did not make any. They tendered on the same class of work.

30 Q.—So, when the Maccurban Company did not get the contract, the Amiesite Company would get it?

A.—Not necessarily. Some other company might have got it.

By Mr. Beaulieu:—

Q.—You were not alone in the field?

40 A.—We were not alone. Mr. Leduc, of this City, has a patent on material which he contends is superior to Amiesite, and which is just about the same as amiesite. They are using cold processes, and hot mixes all over the country.

By Mr. Masson, continuing,

Q.—You visited the works of those companies from time to time?

A.—Very little.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—But, you were interested in the companies to the extent of looking at the works?

A.—Yes. I visited them very infrequently, though.

10 Q.—When a contract was entered into were you consulted in regard to the undertaking of it?

A.—As a matter of courtesy I might have been a few times, but Mr. Janin handled that almost exclusively. I do not profess to be an asphalt expert at all.

Q.—So far as concerned the signing of the contracts the entering into of any contract, or conveyance, or agreement, in reference to the work of those companies in which you were interested as a big shareholder or director, is it not true you were consulted and that you had something to say?

20 A.—In all big matters appertaining to Quinlan Robertson & Janin, Limited, I would be consulted. I would be consulted very little in the paving companies.

Q.—But, you were interested in the paving companies to the same extent as you were in Quinlan Robertson & Janin?

A.—No, I was not. Financially I might have had the same interest, but it was a different proposition to me. I would not have been in the paving business here only for Mr. Janin.

Q.—And, Mr. Janin was attending to the paving business?

A.—Mostly.

30 Q.—And, you knew something about the contracts that were signed?

Witness:—By Whom?

Counsel:—By the Amiesite Asphalt, Limited, or the Maccurban Asphalt, Limited.

A.—I think Mr. Janin virtually signed them all. I do not remember having signed any contracts.

40 Q.—Were there any meetings of the directors held in reference to those contracts?

A.—There may have been some perfunctory meeting, but that was all.

Q.—Before undertaking any work, or before making any tenders for work, you did not pay any attention to the paving business?

A.—Very little.

Q.—The only interest you had in those companies was to receive dividends, if there were any?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—Oh, no, that is not right, I wanted to see them proposer? of course, but so far as the direction of the companies was concerned neither Quinlan nor I interfered in the paving companies to any extent.

10 Q.—What did you do for the benefit or the interest of the Amiesite Asphalt, Limited, and the Maccurban Asphalt, Limited, while you were a big shareholder in those companies?

A.—I was a shareholder, and that is about all. Of course, I was prepared to assume any responsibility that attached to me.

Q.—But, as a matter of fact, you did not assume any?

A.—Oh, yes, I did.

Q.—What kind of responsibility?

A.—Financial responsibility, by going to the Bank and telling the Bank I would be responsible for any loans they made in  
20 the beginning.

Q.—Did the Maccurban Asphalt, Limited, get its contracts directly from the other contracting parties, or were some of them obtained (as in the case of the Welland Ship Canal, as you said the other day) through an intermediary?

A.—I never said the Welland Ship Canal was obtained by an intermediary.

Q.—Did anything happen such as happened in the case of the help given by the O'Briens in connection with the Welland Ship Canal, in reference to the contracts of the Maccurban Asphalt, Limited?  
30

Mr. Beaulieu:—I object to the question as irrelevant and illegal.

A.—To my knowledge, no. Let me say you did not get correctly what I said with reference to O'Brien, either.

Q.—You said Mr. Quinlan did not know anything about the contract on Section 8 of the Welland Canal?

A.—I said Mr. Quinlan did not know anything about the  
40 prices that were put in to obtain the contract.

Q.—When was that contract entered into?

A.—More than five years ago.

I endeavored to say the other day that O'Brien was a contractor long before either Mr. Quinlan or I, and was a very wealthy man.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—When you met Mr. Quinlan about five years ago, at the time you got the Welland Canal contract, you would discuss with him the business and the contracts of A. W. Robertson, Limited?

10      Witness:—You mean the advisability of tendering?

Counsel:—Yes.

A.—We discussed that, certainly.

Q.—And, you discussed the price at the same time?

A.—No, I did not.

Q.—In other contracts you discussed the price with Mr. Quinlan?

A.—Sometimes.

20      Q.—Not always?

A.—Not always, no.

Q.—Did you meet Mr. Quinlan very frequently in reference to the business of the companies in which you were both interested?

A.—When I was here I met him every day, I think.

Q.—Where? At the office?

A.—At our office, yes.

Q.—Did he meet you at your home?

30      A.—Mr. Quinlan and I were business associates for years. We met all over, and had a very perfect understanding of our relationship.

Q.—You were meeting him at the office nearly every day?

A.—When I was in town, yes. He stayed here most of the time — in fact all the time.

Q.—Did you meet him occasionally outside of the office?

A.—I should think so.

Q.—At your residence, or at his residence?

40      A.—I met him all over. We used to go out driving together, and we used to go around together all the time.

Q.—Did he visit you very often at your house?

A.—He used to come up there very frequently, either to the house, or the verandah.

Q.—And, you did the same with him?

A.—Yes.

Q.—When did Mr. Quinlan fall sick?

A.—About three and a half years ago.

Q.—When did he become incapable of attending at the office?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I do not know that. I know the last time he was in the office was about a month before he died.

Q.—Previous to the last time he went to the office did he go there frequently?

10 A.—No. Of course, I made no record of it.

Q.—But, from memory, would you say he went frequently, or did he leave the work entirely to yourself?

A.—During the last year of his life of course he did not go to the office daily, as he had done previously.

Q.—He had a great deal of confidence in you, and so far as the undertakings and the business of the companies in which you were both interested were concerned he left matters entirely to you?

A.—I do not know that.

20 Q.—But, you know, as a matter of fact, he had confidence in you?

A.—I hope so. I had in him.

Q.—During the last year previous to his death he did not take very much interest in the undertakings of the companies with which you and he were connected, because he knew you could attend to it for his benefit and he had confidence in you?

A.—Of course I know he was very much interested.

Q.—How did you know that?

30 A.—By the questions he used to ask every time I went to see him.

Q.—Did you go to see him very frequently?

A.—Very frequently.

Q.—What do you mean by that?

A.—I suppose every day I was in town.

Q.—Were you very often in town?

A.—Yes.

Q.—So, if you were in town for fifteen days you would go to see him every day during your fifteen days?

40 A.—Nearly every day, or I would telephone, or communicate with the house in some way — with the boys, and with Mrs. Quinlan.

Q.—Did you go very often to see him, apart from telephoning or speaking to the boys?

A.—Yes.

Q.—Approximately how many times did you go?

A.—I could not tell you that.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

And the further examination of the witness was continued at this point until wednesday, October 30th, at eleven o'clock in the forenoon.

10 And further for the present deponent saith not.

J. Kenehan,  
Official Court Reporter.

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And on the 30th day of October, in the year of Our Lord one thousand nine hundred and twenty nine personally came and reappeared the said witness Angus W. Robertson already sworn,  
20 who continues his examination as follows:—

By Mr. Masson:—

Q.—Did you see Mr. Janin since yesterday?

A.—I saw him just now. He drove me down here.

Q.—Did you enquire about his shares in the Amiesite Asphalt, Limited?

A.—No, I did not. I forgot about it.

30 If you will let me know just what you want I will make the enquiry. I have just forgotten what it was. Did I promise to do something?

Mr. Beaulieu:—No, you did not promise, and you are not bound to make any enquiry about Mr. Janin's shares. You have to speak for your self, but not for Mr. Janin.

By Mr. Masson, Continuing,

40 Q.—You said yesterday you were the Trustee of all the shareholders of the Amiesite Company at the time of the transfer of the shares to W. P. Macdonald Company?

A.—Yes.

Q.—And that those who transferred shares to you, as Trustee for the purpose of that transaction, were Mr. Janin, Mr. J. J. Perrault.....

A.—(interrupting) And whatever shareholders there were at the time.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And that Mr. J. J. Perrault was the nominee of someone: probably of Mr. Alban Janin?

A.—Yes.

10 Q.—But that you are not sure about J. J. Perrault being the nominee of Alban Janin?

A.—He told me he was.

Q.—Who told you that? Perrault or Janin?

A.—Janin.

Q.—Did Perrault tell you anything about it?

A.—I never discussed it with him.

Q.—At the time J. J. Perrault endorsed his certificates to you as Trustee for the purpose of that transaction did he tell you anything about his being nominee of someone else?

A.—No.

20 Q.—You said that the share certificate the possession of which, after having been endorsed by Mr. Dunlop for 200 shares and Mr. Quinlan for 50 shares, of Amiesite Asphalt, Limited, had been transferred by you to two of your sons and Albert Janin?

A.—I have just forgotten whether it was to Albert Janin or not.

To help your memory: I understand your son A. D. Robertson received 42 shares?

30 A.—Yes.

Q.—Your son D. Robertson received 41 shares?

A.—Yes.

Q.—And, Alban Janin received 83 shares?

A.—Yes.

Q.—Albert Janin was the nominee of his brother Alban Janin?

A.—Yes.

40 Q.—When you transferred those 83 shares, or approximately 83 shares, to Alban Janin, after having received them from Mr. Dunlop and Mr. Quinlan, that transfer to Albert Janin was made in his quality of nominee of Alban Janin?

A.—They were for Alban Janin.

Q.—And your two sons were your nominees, I suppose?

A.—I was giving them the stock.

Q.—The transfers made to your sons was not of the same character as the transfer he made to Albert Janin who was really the nominee of Alban Janin?

A.—It was a deal between Alban Janin and me.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—But, the transfer resulting from that deal was made to Albert Janin?

A.—Yes.

10 Q.—So, Albert Janin was really to your knowledge and from the information which you gathered at the time the nominee of Alban Janin?

A.—Yes.

Q.—At the same time as you transferred those shares to your two sons and to Albert Janin as nominee of Alban Janin you transferred 83 shares to J. J. Perrault?

A.—Yes, if that is on record. I do not know. I know the shares were for Alban Janin.

Q.—So, according to you, at that time Alban Janin had two nominees, J. J. Perrault and Albert Janin?

20 A.—Yes.

Q.—Did he give you any reason for having two nominees like that?

A.—No.

Q.—Is it to your knowledge that Mr. Hepburn transferred 250 shares of Amiesite Asphalt, Limited, to J. J. Perrault?

A.—I do not recollect that.

Q.—But you do recollect a transfer having been made by Hepburn to J. J. Perrault?

A.—I would have to see the certificates to be sure of it.

30 Q.—From memory can you not say that Hepburn transferred his shares in the Amiesite Company?

A.—No, I cannot remember.

Q.—Is it not true that at a certain time D. M. Hepburn was a shareholder of the Amiesite Asphalt Limited?

A.—I understood so, yes.

Q.—And, at the time of the transaction between yourself in your personal capacity and as nominee for other shareholders, and W. P. Macdonald Company, Hepburn was not a shareholder of Amiesite Asphalt Limited?

40 A.—I would have to see the certificates to know that. I was merely the Trustee of the certificates.

Q.—So, you were the Trustee of the certificates?

A.—I was the Trustee of the transaction. I did not have the certificates in my possession, unless they were passed over.

Q.—When you put the transaction through you were acting for yourself for one third, and you were acting for Alban Janin for two thirds?

A.—Yes.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Although the share certificates had been transferred to you by Alban Janin and by J. J. Perrault for the purpose of that transaction?

A.—I do not know that they were transferred to me.

10 Q.—But, you said so a moment ago.

A.—They were handed to me for the purpose of making the transfer.

Q.—Those share certificates were handed to you by Alban Janin and by J. J. Perrault for the purpose of the transaction?

A.—No. I have forgotten by whom they were handed to me. I know the result of the transaction was, as I have stated, that Janin got two thirds, and I got one third.

20 Q.—And, the proportion of the interest of those who were shareholders at the time of that transaction with W. P. Macdonald was one third for you, and two thirds for Janin?

A.—That was what I got out of it anyway.

Q.—Do you get that from deduction which you made from the circumstances as they existed at the time?

A.—I get it from the arrangement between Mr. Janin and myself.

Q.—Was that arrangement in writing, or verbal?

A.—Verbal.

30 Q.—How long previous to the transaction did that understanding take place?

A.—I do not know.

Q.—Was it a question of months, or weeks?

A.—I do not remember those details now.

Q.—The money was paid to you by W. P. Macdonald Company in cash?

A.—No.

Q.—By cheques?

A.—By cheques and drafts: that is my recollection.

40 Q.—At the time of the transaction the Amiesite Asphalt, Limited, had a certain amount in cash?

A.—I never remember having received any cash at all from Macdonald. If I did, it was an insignificant amount for some adjustment.

Q.—At the time of the transaction did the Amiesite Asphalt Company, Limited, have any cash on hand, or deposited in any Bank or anywhere else?

A.—Surely they had.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And, by the transaction that took place, that money went under the control of W. P. Macdonald Company?

A.—Yes.

10 Q.—Can you tell me approximately the amount the Amiesite Asphalt, Limited, had at the time of that transaction?

A.—No, I could not.

Q.—Was it a matter of hundreds of dollars, or hundreds of thousands of dollars?

A.—They must have had a goodly amount of money. I do not know now just what it was.

Q.—Hundreds of thousands of dollars?

A.—Probably a couple of hundred thousand. I do not know.

20 Q.—The interest of the transferors of the shares in that transaction which took place between W. P. Macdonald and yourself in your personal capacity and in your capacity as Trustee for the shareholders of the Maccurban Asphalt, Limited, and the Amiesite Asphalt, Limited, was one third for you and two thirds for Alban Janin?

A.—One third for me, and my sons.

Q.—Your sons were included in your one third?

A.—Yes. That is my recollection. They had nothing to do with the Maccurban Company, of course. That was a separate transaction. They had no stock in Maccurban.

30 Q.—Was the transaction which took place with W. P. Macdonald Company in reference to the Maccurban Company different from the transaction which took place in reference to the Amiesite Company?

A.—No. He paid for them both by cheque or draft.

Q.—After the transaction the proceeds were divided one third for yourself or your nominees and two thirds for Alban Janin or his nominees?

A.—Yes.

40 Q.—And the nominees of Alban Janin at that time were Albert Janin and J. J. Perrault?

A.—No: Alban got the money.

Q.—And you gave him the money?

A.—I gave it to him by cheques and bonds. I did not give him the money.

Q.—Do you remember about the amount of the cheques you gave him?

A.—No, I do not, offhand; but I know he eventually got his two thirds of it, when I got the money.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—In bonds and cheques?

A.—Bonds and cheques.

Q.—What kind of bonds?

A.—Government bonds.

10 Q.—Was there any writing between you for that purpose?

A.—Not that I recollect.

Q.—So, everything that took place between yourself and Mr. Janin in reference to that transaction was verbal?

A.—When he got a cheque he would have to endorse it, of course.

Q.—Have you those cheques in your possession still?

A.—I do not know where it is. I might have it. I could look.

20 You understand you should say “cheques”, because the payments extended over some months.

Q.—You keep track of all your cheques?

A.—Unfortunately I do not.

Q.—You have employees who do it?

A.—No.

Q.—You pay hundreds of thousands of dollars by cheques, and you say you do not keep any account of them?

A.—In my own personal account I keep no books.

30 Q.—Notwithstanding the importance of the transaction, or the amounts you are paying you do not ask for any receipt, and there is no writing in reference to those payments?

A.—I may have had a receipt. I would have to ask Mr. Janin to go into it. I do not remember now what I did in that affair.

Q.—And, you say there are no written receipts in reference to this transaction of the Amiesite and Maccurban and W. P. Macdonald Company?

40 A.—I did not say that. So far as the W. P. Macdonald Company was concerned I made a different understanding.

Q.—In writing?

A.—I think it was in writing, although I am not sure now.

Q.—Was it before a notary?

A.—No.

Q.—Under private seal?

A.—It was not before a notary.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Where is that writing today?

A.—I do not know. I do not know whether there is any writing or not. We transferred the stock to him, and was that not all that would be required? If he came into possession of  
10 the stock would not that complete the transaction in itself? If you paid me for stock, and I gave it to you, would not that be a finality?

Counsel:—The Court will decide that.

Witness:—From my enquiries W .P. Macdonald Company were people of very substantial character.

Q.—But, when they do business I suppose they do it in the  
20 ordinary way, by writing?

A.—But, when they get possession of something after having paid for it, that is the end of it. They got possession of nothing until they paid the last dollar.

Q.—But, they did not pay it all in cash?

A.—No. They paid it by cheque and draft at intervals.

Q.—Did they not ask for some writing from you in regard to the first payments they made, seeing that they had not possession of the shares and were not the owners of them?

A.—Yes, I think they did, although I am not sure just now  
30 what passed at the time.

Q.—You kept copies of those writings?

A.—I did not.

Q.—So, they had the originals and you did not have any copies of those documents you signed?

A.—I do not remember keeping any copies at all. In fact, I would not keep them anyway: they would have been in the office.

Q.—I have noticed your lack of memory throughout this  
40 examination? I understand it is sincere, but the transaction we are speaking of took place only about a year and a few months ago.

A.—Yes.

Q.—It was a transaction involving seven hundred and fifty thousand dollars or more?

A.—Yes.

Q.—I take it you do not enter into transactions of that size every day?

A.—No.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Do you not think you should remember it when you are entering into a \$750,000 transaction in reference to the sale of all your holdings and those of your co-shareholders in companies in which you are interested?

10 A.—But, if I got a substantial payment on account of it, and was still the possessor of the stock, would I not be in a better position than I was before I sold it?

Q.—But, that is not the question I am asking you. The transaction we are speaking of took place a year and a few months ago, and it was a very substantial transaction so far as the amount was concerned. That being the case, I suggest to you your memory should be more accurate on the circumstances of the transactions.

20 A.—No. I know I protected myself throughout by keeping possession of the stock certificates until the last payment was made.

Q.—But, the importance of the transaction, and the short lapse of time between the transaction and today should not be an obstacle to your memory of the circumstances.

A.—I know I have no documents in my possession regarding it.

Q.—Do you remember the circumstances of the transaction?

A.—I remember the transaction took place.

30 Q.—Do you remember the particulars of it?

A.—Not all the details, no.

Q.—This transaction did not take place very long ago?

A.—A year and two or three months ago. If there are any writings I will be able to obtain them.

Q.—Do you not think your memory is sufficiently good to enable you to say whether there were any writings or not?

A.—My recollection is there was some kind of an agreement, but I am not sure as to that.

40 Q.—So, you are not sure whether an agreement in writing existed or not?

A.—No.

Q.—What strikes me is this: and I would like your explanation. — Throughout your present examination you have shown a weak memory, and since you are very well aware that your memory is not very good it is rather peculiar you should not ask for some writing when you pass agreements of very great importance. Do you not think there is a contradiction between the fact that you do not sign any writing, and your lack of memory?

A.—No, I do not.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You are a business man, and a financier. Seeing that your memory is very weak do you not think it would be quite natural that you should sign writings when you enter into contracts of that kind?

10 A.—Undoubtedly when I enter into anything that requires what I think to be protection, I get it.

Q.—Inasmuch as your memory is weak do you not think when you enter into a contract you should have something before you which would later on assist you in remembering the kind of transaction you entered into, and, as a matter of fact, do you not sign contracts when you enter into them?

A.—In a simple transaction of turning over stock there would not be much required.

20 Q.—But, when you are transacting for an amount of \$750,000 inasmuch as your memory is very weak, do you not think it natural that you would sign agreements when you enter into such a transaction?

A.—I cannot see where there is any risk, because I had possession of the stock until it was all paid for. There is likely a memo about it, but I do not know where it is.

Q.—Although you had possession of the stock before it was fully paid for, yet you had received certain substantial instalments?

30 A.—Yes.

Q.—Do you not think when you received those substantial instalments you received them under a written agreement?

A.—Very likely, but I have forgotten it.

Q.—Since your memory is very weak, and since you could not rely on it, do you not think you signed a written contract at the time?

A.—If there are any agreements in existence they are not in my possession, and I have forgotten about them. I could hunt them up, and find them, if they are in existence.

40 Q.—So, although you are very well aware of the fact that your memory is defective, you persist in saying that when you enter into contracts for a very substantial amount you do not demand any writing?

A.—I do not say that at all.

Q.—You admit your memory is weak?

A.—No.

Q.—You have a good memory?

A.—It all depends on whether I try to exercise it or not.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Are you trying presently to exercise your memory?

A.—Yes.

Q.—And, you are doing your best to obtain the best result from your memory?

10 A.—Yes, certainly. I am endeavoring to remember what took place when that transaction occurred, and if there are any documents I will be able to get them.

Q.—It is impossible for your memory to help you in any better way than it is doing at present?

A.—I do not know what you refer to, or what you mean.

Q.—Is your memory doing its very best in order to bring back to you the circumstances of the transaction?

A.—Yes, I am endeavoring to recall what occurred.

20 Q.—And you cannot recall better than you have told me already?

A.—No. If there are any documents, or if we made any memos, I will endeavor to find them.

Q.—Before the W. P. Macdonald transaction Mr. Janin had had recourse to nominees for other transactions?

Witness:—In what way? In what other transactions do you mean?

30 Counsel:—In the past, for instance, he had certain nominees and shareholders.

Witness:—In what companies?

Counsel:—Quinlan Robertson & Janin, Limited, for instance.

A.—Not that I know of, no.

Q.—The Maccurban Asphalt, Limited?

A.—Yes, I think so.

40 Q.—The Ontario Asphalt, Limited?

A.—I am not sure as to that.

Q.—The Fuller Gravel Company?

A.—Janin was never in the Fuller Gravel Company.

Q.—A. W. Robertson, Limited?

A.—He never was in that company.

Q.—In what companies was he?

A.—I do not know all the companies he may be in.

Q.—In what companies was he with you?

A.—Quinlan Robertson & Janin, Limited.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Did he have nominees there?

A.—Not that I recollect.

Q.—Mr. Quinlan had some?

10 Witness:—In Quinlan Robertson & Janin, Limited?

Counsel:—Yes.

A.—No.

Q.—In whatever Company or Companies was Mr. Janin interested with you?

A.—The Amiesite Asphalt Company; the Ontario Amiesite Company.

20 Q.—Did Mr. Janin ever use the name of J. J. Perrault as nominee before?

A.—I do not know that.

Q.—Is it not true Mr. J. J. Perrault was the nominee of someone else besides Mr. Janin?

A.—Not to my knowledge.

Q.—The Maccurban Asphalt Company, Limited, and the Amiesite Asphalt, Limited, paid dividends?

A.—Yes.

30 Q.—And, it is to your knowledge that Mr. Janin and J. J. Perrault received dividends from those companies?

A.—I did not distribute the dividends. I do not know. They received whatever was their proportion, I presume.

Q.—Do you know how long J. J. Perrault was a shareholder in the Amiesite Asphalt, Limited?

A.—No.

Q.—But, you know he received dividends from that company, and from the Maccurban Asphalt, Limited?

A.—I personally do not know it. I never gave them to him.

40 Q.—Is it not true every time Mr. Janin had recourse to a nominee he used a member of his family?

A.—I do not know.

Q.—Is it not true, to your knowledge, he used the name of a member of his family as nominee?

A.—Yes.

Q.—In several instances?

A.—I would have to know the circumstances to be able to tell you.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Every time Janin had recourse to a nominee in the companies in which yourself and he were interested he used the name of a relation of his?

A.—I do not know that.

10 Q.—Will you make search in order to find out the writings, if there are any, that were signed in reference to the transaction between the W. P. Macdonald Company and the Amiesite Asphalt, Limited, and Maccurban Asphalt, Limited, and also all writings relating to that transaction, whether they were previous or subsequent to it?

A.—Yes.

Q.—Did you have any correspondence with Janin, or with anyone else, in reference to that transaction?

A.—I do not remember having had any.

20 Q.—I asked you yesterday about your knowledge of the contracts which were signed, or which were obtained, by the Amiesite Asphalt, Limited, and the Maccurban Asphalt, Limited?

Witness:—How do you mean? the contracts?

Counsel:—Do you remember I asked you questions about that — whether you knew of certain contracts?

A.—I know they both got contracts.

30 Q.—Which company got the contract for the road to Mont Laurier?

A.—I do not know.

Q.—Which one of the two companies got it?

A.—Both of them got contracts in different parts of the Province.

Q.—But you know one of the two companies got the contract for the road to Mont Laurier?

40 A.—No, I do not. I know there were a lot contracts let, and they kept getting contracts all the time, but I did not bother with the details of them.

Q.—Those details never came to your knowledge?

A.—Very rarely.

Q.—Has any contract been transferred by anyone to the Maccurban Asphalt, Limited?

A.—I do not know that.

Q.—Who would know it?

A.—Mr. Janin.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—In all the transactions, and in reference to all the facts covered by this discovery from the beginning to the present time Mr. Janin is the one who was acting, and who knows the particulars and the details in regard to which you have not been able to  
10 answer?

Mr. Beaulieu:—It is very hard for the witness to answer that, and it is my duty to protect him in order that he may not give an answer which is imprudent. This is not a question of fact, but purely a question of opinion and conclusion.

Mr. Masson:—I respectfully draw the attention of my learned friend to this fact: seeing the nature of the present examination he should not interfere with the witness.  
20

Mr. Beaulieu:—We may not agree upon that, and I will interfere whenever I think it is my duty.

Mr. Masson:—If the answer is hard for the witness, it is particularly at that time Counsel should not interfere.

Mr. Beaulieu:—Then I appreciate my duty differently from my learned friend.

30 Mr. Masson:—Your duty is strictly limited by law.

Mr. Beaulieu:—I think a great deal of this examination is outside the record altogether, and if you continue I will object on the ground of irrelevancy. If I had raised the legal technicality you would have been stopped long ago, but I want to be very patient with you, and give you every latitude; still, there must be an end to it. If you persist in continuing I will enter an objection, and have the matter decided by the Court.

40 I object to the question as not being a question of fact, but rather a question of opinion. I also object to it on the ground of irrelevancy.

By Mr. Masson, continuing:—

Q.—In all the transactions, and in reference to all the facts covered by the present discovery from the beginning to the present time Mr. Janin is the one who was acting, and who knows the

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

particulars and the details in regard to which you have not been able to answer?

A.—I do not know.

10 Q.—Mr. Janin can answer in regard to the Maccurban Company and to the Amiesite Asphalt, Limited?

A.—Mr. Janin knows more about them than I do.

Q.—Mr. Janin and you have been in business together for a long time?

A.—Yes, quite a long time.

Q.—During all the time you have been in business together you had your own part of the work, and Mr. Janin had his part?

A.—Mr. Janin was the managing director of the companies.

Q.—And, what were you?

20 cer — I do not know what.

Q.—You had confidence in Mr. Janin, and Mr. Janin had confidence in you?

A.—I hope so.

Q.—You relied on what Mr. Janin did, in so far as you were concerned; and Mr. Janin relied on you for your part of the work, so far as he was concerned?

A.—Yes, I think so.

30 Q.—In so far as the details and particulars of the Amiesite Asphalt, Limited, and the Maccurban Asphalt, Limited, are concerned, Mr. Janin had not full power to act on your behalf?

A.—He may not have had it legally, but he operated the businesses.

Q.—He had full power, then, to act, in so far as you were concerned?

A.—I never interfered with his operation of the businesses.

Q.—And, you stood by what he did, and he stood by what you did?

A.—I accepted his judgment in those matters.

40 Q.—In his quality as Managing Director of the different companies in which he and you were interested Mr. Janin had control of the archives and of the bookkeeping systems of those companies?

A.—He was in charge of the administration of the companies.

Q.—That includes charge of the bookkeeping systems and of the archives of those companies?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—So, the documents or writings entered into and signed by you in your personal capacity or otherwise in reference to the Maccurban Asphalt, Limited, or the Amiesite Asphalt, Limited, or any other company in which you were both interested, are  
10 under his control?

A.—I would not say that.

Q.—He has them in his possession?

A.—Anything that was in the office would be; but if the thing were not there he would not have control of the records.

Q.—If there are any documents in existence, and if they are in the hands of the companies, those documents are under his control?

20 Witness:—You are now referring to what?

Counsel:—Amiesite and Maccurban.

A.—I should think he would know more about them than anyone else.

Q.—And, if there are any documents signed by you or by W. P. Macdonald Company, or by himself, in reference to those transactions, and if those documents are in the possession of the companies, he has them under his control?

30 A.—I should think so.

Q.—If any documents exist in reference to those companies and in reference to the transaction which took place between the W. P. Macdonald Company and the Amiesite Company and the Maccurban Company, those documents are in the possession of Mr. Alban Janin?

A.—I did not say that.

Q.—If there are such documents in existence today, it is quite probable they are in the possession of Mr. Alban Janin?

A.—It is quite probable he would know where they are.

40 Q.—They are in his possession?

A.—I do not know that.

Q.—If any exist, he has control over them?

A.—I do not know that. I suppose so, but I do not know it.

Q.—In other words, you are not sure but it may be the fact that Janin has in his possession, or under his control, documents signed by you, or by W. P. Macdonald Company, in reference to the transaction of the Maccurban Asphalt, Limited, and the Amiesite Asphalt, Limited?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—If they are in existence I should think he would know more about them than anyone else.

Q.—And, if those documents are in his possession, or if he has them under his control, it is with your consent?

10 A.—No expressed consent. I never discussed it with him.

Q.—Did you ever object?

A.—I never said to him: “Here are the documents. You keep them.”

Q.—Did you ever object to him keeping them?

A.—No.

Q.—You had confidence in him to the extent of leaving those documents in his possession, if he has them?

A.—If they are in existence. I have not got them that I know of.

20 Q.—You had sufficient confidence in Mr. Janin to let him keep those documents?

A.—I should have, if they were in existence, certainly.

Q.—Is it not true that inasmuch as your memory is weak (as it appears to be from your answers) that if you did not keep any writing yourself it was because you were relying very much on Mr. Janin’s memory?

A.—I do not keep any documents of transactions that occur in the companies. They are all there in the office. I do not keep them personally.

30 Q.—If there is no writing in your possession with reference to the transactions you entered into and in which you were personally concerned, if you do not keep any such writings, it is because you rely on Mr. Janin’s memory, inasmuch as your own memory is weak?

A.—No, I do not say that at all.

Q.—But, you rely on him to help you out at certain times when your memory is weak?

40 A.—I do not discuss such things with Janin at all. I never discussed relying on him to help me out because my memory is weak.

Q.—Did you ever attend any meeting of the Maccurban Asphalt, Limited?

A.—I very likely did.

Q.—From the beginning to the end?

A.—I do not know that. If I did, the records would be there.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—The minutes were read and approved. Did you sign those minutes at the same meeting, or were they signed afterwards?

A.—I do not recollect that.

10 Q.—Were the minutes signed separately by the shareholders or the directors?

A.—I do not remember.

Q.—Do you know Mr. Mullen?

A.—Yes.

Q.—Did he have anything to do with the Maccurban Asphalt, Limited?

A.—I think he was an employee.

Q.—From the beginning to the end?

A.—I do not know that.

20 Q.—Do you remember about a contract in which Mr. Mullen was interested?

Mr. Beaulieu:—I object to the question as irrelevant. We are not going to enter into the details of Mr. Mullen's business.

By Mr. Masson, continuing:—

30 Q.—Was there a contract entered into between Mr. Mullen and Maccurban Asphalt, Limited?

Mr. Beaulieu:—I have already objected to this question. You are not bound to answer, Mr. Robertson, unless you wish to do so.

By Mr. Masson, Continuing,

Q.—Who were the shareholders of Maccurban Asphalt, Limited?

40 A.—I would have to look up the book to see.

Q.—Was Mr. Mullen a shareholder of the company?

A.—He may have been. I do not know. He may have had a few shares.

Q.—And, if he was a shareholder, like Mr. Janin and yourself, he did not pay anything for his shares?

A.—Not that I know of.

Q.—Is it not true that, as a matter of fact, the capital stock of Maccurban Asphalt, Limited, was issued not on account of a

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

process transferred by Mr. Janin to the Maccurban Asphalt, Limited, but on account of a contract that was transferred by Mr. Mullen to the Maccurban Asphalt, Limited?

A.—I do not know that.

10 Q.—Did you ever know anything about that?

A.—I know nothing about the details of how the matter was arranged.

Q.—You said yesterday you knew Mr. Janin had transferred his process to the Maccurban Asphalt, Limited?

A.—I thought it. That was my recollection. It was my recollection that Mr. Janin had obtained a patent on the invention, or had obtained a license, and transferred it for the shares.

Q.—But, you are not sure today?

A.—No, I am not sure.

20 Q.—Is it possible the consideration was not Mr. Janin's process?

A.—It may have been, and it may not have been.

Q.—Is it possible the consideration was the transferring of a contract?

A.—I am not in a position to say.

Q.—You never knew anything about that?

A.—No.

Q.—It was never brought to your knowledge?

A.—I do not remember it at all.

30 Q.—Did Mr. Mullen ever transfer any shares in Maccurban Asphalt, Limited, to you?

A.—Not that I recollect. I do not think he ever transferred any shares to me. He may have. He may have gotten his shares in beginning. I know I got one third of the stock.

Q.—Did Mr. Mullen transfer any shares to J. J. Perrault?

A.—I do not know that.

Q.—Was Perrault a shareholder of the Maccurban Asphalt, Limited, at the same time as you were?

A.—Yes.

40 Q.—Is it not true Perrault, yourself and Janin got your shares from the same source — that is, from the 1000 shares that had been issued at the beginning to Mullen in consideration for the transfer of a contract?

A.—It may have been. That would not make any difference to me: how I got them, as long as they were given to me.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—At the time Perrault was a shareholder of the Maccurban Asphalt, Limited, with yourself and Janin was he the prete nom of Janin?

A.—I think so.

10 Q.—You are not sure?

A.—I only know what I was told.

Q.—At all events, Perrault was a prete nom?

A.—Yes.

Q.—And, you are not sure whether he was a prete nom of Janin?

A.—Only what Janin told me.

Q.—Was Janin a prete nom of anyone?

A.—Not that I know of. I do not think so.

20 Q.—You signed certain transfers in regard to the acquisition of shares in Maccurban Asphalt, Limited?

A.—I would naturally sign anything that was presented to me in the ordinary course of affairs, and I did whatever is on record.

Q.—As a matter of fact, where were those documents signed which were to be signed in the ordinary course of affairs with reference to the Maccurban Asphalt, Limited?

A.—I do not remember. I suppose in our office.

Q.—You are not sure?

30 A.—No, I am not sure. I do not remember having signed anything except in the lawyer's office.

Q.—You signed something in connection with Maccurban in a lawyer's office?

A.—I do not remember that I did. I would have to see the books, and I would have to see my signature. I could not possibly remember that.

Q.—Who incorporated the company?

A.—I do not know. I presume the same man who has incorporated all our companies.

40 Q.—Who is he?

A.—Mr. J. L. Perron's office. I think he has incorporated nearly all our companies, except the Ontario Companies or the ones in which there were other interests.

Q.—At all events, you swear J. J. Perrault was the prete nom of someone in the Maccurban Asphalt; Limited, and according to your opinion he was the prete nom or the nominee of Mr. Janin?

A.—Yes.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—If he was not the prete nom of Mr. Janin he was the prete nom of someone else?

A.—I do not know that. He could not be the prete nom of two people.

10 Q.—Was not Albert Janin also a shareholder of the Maccurban Asphalt, Limited?

A.—If his name appears on the books. I have forgotten now.

Q.—When did Mr. Alban Janin begin to use the name of J. J. Perrault as prete nom?

A.—I do not know.

Q.—To your knowledge did he ever use the name of anyone else as prete nom?

20 Witness:—In what transaction?

Counsel:—Any transaction in any of the companies in which you were both interested.

A.—He used Hepburn's name, I think.

Q.—Did he use his brother's name?

A.—I think so.

30 Q.—You say Mr. Janin used the name of Hepburn as prete nom?

A.—Yes.

Q.—Is it not true Hepburn himself owned shares of the Amiesite Asphalt Company Limited?

A.—He may have.

Q.—Is it not true that, as a matter of fact, Hepburn was never the prete nom of Janin?

A.—I do not think so.

Q.—Is it not true to your knowledge that Hepburn was not the prete nom of anyone?

40 A.—No: except Janin.

Q.—You are President of A. W. Robertson, Limited?

A.—Yes.

Q.—You were President of Quinlan Robertson & Janin, Limited?

A.—I was.

Q.—You are President of Robertson & Janin, Limited?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You were President of Quinlan Robertson, Limited, — the old company?

A.—No.

Q.—Who was President of that company?

10 A.—That company went out of existence ten or twelve years ago. Mr. Quinlan was President, I think.

Q.—Is it not true that a few months ago that company entered into contracts?

Witness:—Quinlan & Robertson?

Counsel:—Quinlan & Robertson Limited.

Witness:—Quinlan & Robertson?

20

Counsel:—Yes.

A.—It has not been in existence for ten years. They may have had some old properties, or something, that were not properly transferred; but they have not been in existence for ten or twelve years.

Q.—Were you an officer of Quinlan & Robertson, Limited?

A.—I was Vice President.

30 Q.—Who was Secretary of the Company?

A.—Mr. Leamy.

Q.—Was he the last Secretary of the Company?

A.—I think so.

Q.—The President of the Company, Mr. Quinlan, is dead?

A.—Yes.

Q.—Where are the books of Quinlan & Robertson, Limited?

A.—They have not been any books for ten or twelve years.

Q.—Has that company any assets?

40 A.—Not that I know of; unless there was some piece of property that was not properly transferred to A. W. Robertson, Limited, or to Hugh Quinlan & A. W. Robertson personally.

Q.—Will you please bring with you the charter, the cash book, the journal, the statements for 1922 down to date, the profit and loss account, the reports to the Government of Canada and the Province of Quebec, in reference to A. W. Robertson, Limited?

Will you also bring with you the Minute Book, the Share Certificate Book, the Transfer Book, the statements for the last

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

seven years, the income tax reports, the charter the ledgers, the contracts entered into with Robertson & Janin, Limited, and the agreements between Quinlan Robertson & Janin, Limited, and the agreements between Quinlan Robertson & Janin, Limited,,  
10 and other companies — of Quinlan Robertson & Janin, Limited?

Will you also bring with you the statements, the charter, the Minute Book, the transfer book, the share certificate book, of Robertson & Janin, Limited?

Will you also bring with you the contracts and agreements in reference to the transaction that took place between yourself in your personal capacity and in your capacity of nominee for other shareholders between the Amiesite Asphalt, Limited, and  
20 the Maccurban Asphalt, Limited, and W. P. Macdonald Company?

Mr. Beaulieu:—I object to this as illegal, inasmuch as it is not shown the witness has the control of those documents, but, on the contrary, it appears he has no control over them.

Mr. Masson:—Counsel for Plaintiffs insist upon the witness coming before the Judge so that if any Order is given he will be present to receive it.  
30

Mr. Beaulieu:—Counsel for Defendants advises the witness he may go for the present, and that it is not necessary he should appear before the Judge.

By Mr. Beaulieu:—

Q.—What will you do?

A.—I will take the advice of Mr. Beaulieu.

40

By Mr. Masson:—

Q.—You know Dr. Hackett?

A.—Yes.

Q.—Have you known him for a long time?

A.—Quite a long time.

Q.—Is he your family doctor?

A.—No.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Were you or any member of your family ever under the care of Dr. Hackett?

A.—Not that I know of.

10 Q.—During the time Mr. Quinlan was ill did you go to see him frequently?

A.—Yes.

Q.—Except when you were out of town, naturally?

A.—I was away for three months shortly before he died. I was travelling.

Q.—How many days before he died did you come back from that trip?

A.—Six or eight weeks.

Q.—During those six or eight weeks did you see Mr. Quinlan very often?

20 A.—Quite frequently.

Q.—What do you mean by that?

A.—Nearly every day I was in town.

Q.—Were you frequently in town?

A.—Yes.

Q.—The first time you went to see him while he was sick you enquired about the nature of his illness?

Witness:—From him?

30 Counsel:—Yes.....

Witness:—How do you mean?

Counsel:—Did you enquire about the nature of his illness, or did you enquire what he was suffering from?

A.—I knew what I was told.

Q.—By whom?

40 A.—Dr. Hackett.

Q.—What did Dr. Hackett tell you?

Mr. Beaulieu:—I object to this. The witness cannot be called upon to say what Dr. Hackett may have told him?

Mr. Masson:—The object of the question is to establish the knowledge of the witness.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Mr. Beaulieu:—It would be pure hearsay. The witness telling you what Dr. Hackett told him would not prove anything.

10 Mr. Masson:—It will prove the knowledge of the witness of the illness of Mr. Quinlan.

Mr. Beaulieu:—It would only prove Dr. Hackett's knowledge. In any event, I do not think it is relevant in any way, but if the witness wishes to answer he may do so under reserve of my objection.

Witness:—He told me his heart was affected.

By Mr. Masson, Continuing,

20

Q.—What did you know about the seriousness of his illness?

Witness:—How do you mean?

Counsel:—Was he seriously ill?

A.—I am not a medical man, of course.

Q.—From what happened, was he seriously ill?

30 Mr. Beaulieu:—I object. That is a conclusion. We all know Mr. Quinlan died, so he must have been very seriously ill. Everyone knows that.

Mr. Masson:—Even the witness?

Mr. Beaulieu:—In any event, the witness is not bound to answer. The question is one calling for a conclusion, and is not a matter of fact.

40

By Mr. Masson, Continuing,

Q.—When for the first time did you know Mr. Quinlan was so ill that he would probably die?

A.—I never knew it.

Q.—Did you at any time know Mr. Quinlan was so ill that he would probably die?

A.—I never knew it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Did you at any time know Mr. Quinlan was seriously ill?

A.—Shortly before he died I knew he was seriously ill.

Q.—How many days before he died?

10 A.—I saw him two days before he died, and talked business with him very clearly.

Q.—That was on the 24th?

A.—Two days before he died.

Q.—On what date did he die?

A.—I am not sure.

Q.—June 26th, as a matter of fact?

A.—I do not know definitely. I went to see him and talked with him in reference to our business in Ottawa, and he talked very clearly?

20 Q.—When was that?

A.—Two or three days before he died.

Q.—Was he conscious?

A.—Absolutely.

Q.—And, that was the last time you saw him?

A.—The last time I saw him, yes.

Q.—And, that was on the 24th?

A.—I will not be sure of the date.

Q.—Assuming the fact that he died on the 26th, this would be on the 24th?

30 A.—Two or three days before he died.

Q.—You are not sure whether it was two or three days?

A.—I would have to go back and get the dates on the calendar.

Q.—He died on the 26th, which was a Sunday?

A.—I saw him on the Thursday, or on the Wednesday — I have forgotten which.

Q.—You may have seen him on the Wednesday?

A.—Yes.

40 Q.—And, when you saw him you only discussed with him the affairs in Ottawa?

A.—The business I was going to Ottawa about.

Q.—Were there any witnesses present when you spoke to him?

A.—I do not remember that. I do not remember whether Mrs. Quinlan was there or not.

Q.—Was there anyone else there?

A.—I do not think so.

*Angus W. Robertson (for Plaintiff on Discovery). Ex. in chief.*

Q.—So, the last time you saw him was the Wednesday, the Thursday, or the Friday?

A.—Not Friday.

Q.—Wednesday or Thursday?

10 A.—That is my recollection.

Q.—When did you see him before that Wednesday or Thursday?

A.—I do not know. I was in and out nearly every day when I was in town.

Q.—Could you speak to him every time you went there?

A.—Yes.

Q.—You always had free access to him?

A.—Yes.

Q.—You never were told he was too ill to receive you?

20 A.—I do not remember ever having been told that.

Q.—Is it possible you were told?

A.—I doubt it.

Q.—You saw him on the Wednesday, or whenever it was you went to speak to him about the Ottawa business, you foresaw he would not recover?

A.—No, I did not.

Q.—You still expected he would live?

A.—Certainly.

Q.—Did you ever speak to the nurses when you went there?

30 A.—Yes.

Q.—And, they spoke to you also?

A.—Not very much.

Q.—Did Dr. Hackett once refuse to give you access to Mr. Quinlan's room?

A.—I do not remember that.

Q.—It is possible?

A.—I would require to have Dr. Hackett tell me that to believe it.

40 Q.—You do not remember it?

A.—No.

Q.—Is it not true that after Dr. Hackett had refused you access to Mr. Quinlan's room you telephoned to Mr. Quinlan's residence in order to know whether you could see him or not?

A.—I do not remember that.

Q.—It is possible this happened?

A.—Very improbable.

Q.—But, still it is possible?

A.—It might be.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—When did you know Mr. Quinlan was in a comatose state?

A.—After my return from Ottawa.

Q.—When did you come back from Ottawa?

10 A.—Friday night, I think.

Q.—How long after you saw Mr. Quinlan, on the Wednesday or the Thursday, did you leave for Ottawa?

A.—I think I left that evening.

Q.—How long were you in Ottawa?

A.—I do not know.

Q.—Was it one day, or two days?

A.—I think one day.

Q.—That is you left in the evening, and came back on the train the following evening?

20 A.—Very likely that is what occurred.

Q.—So, when you came back from Ottawa on the Friday night you heard Mr. Quinlan was in a comatose state?

A.—I do not remember that.

Q.—That is what you said a moment ago?

A.—All I know about it is that Mr. Quinlan talked business to me every time I went to see him.

Q.—I asked you if you knew Mr. Quinlan was in a comatose state on the Friday night when you came back from Ottawa?

A.—That is my recollection of it.

30 Q.—And, you left for Ottawa the evening before you heard that? That was on the Thursday evening?

A.—I will not say that. Wednesday or Thursday.

Q.—You said you were in Ottawa one day — that you left one evening, and came back the following evening?

A.—That is my recollection of it. Of course I had no thought at the time of making a record of those things.

Q.—Nothing of importance had occurred at that time, in so far as you were concerned?

40 A.—I do not know what you allude to.

And the further examination of the witness is continued until three o'clock in the afternoon.

And further for the present deponent saith not.

J. Kenehan,  
Official Court Reporter.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

And at three o'clock in the afternoon personally came and reappeared the said witness Angus W. Robertson already sworn, who continues his evidence as follows:—

10 By Mr. Masson:—

Q.—You told me this morning that you went to Ottawa, and when you came back on the Friday evening, you learned Mr. Quinlan was in a comatose state?

A.—I learned he was very ill.

Q.—When did you learn he was in a comatose state?

A.—If he died on the Sunday, I think I learned on the Friday or on the Saturday.

Q.—When you came back from Ottawa?

20 A.—Yes.

Q.—And you left Montreal for Ottawa on the Thursday evening?

A.—I am not sure whether it was Wednesday or Thursday.

Q.—Do you remember whether you spent just the day in Ottawa, or whether you slept there that night?

A.—No, I do not.

Q.—Where did you register in Ottawa?

A.—I do not know. If I registered there I would register at the Chateau Laurier.

30 Q.—Is it not true that, as a matter of fact, Dr Hackett had told you could not see Mr. Quinlan on one occasion when you went to Mr. Quinlan's residence to see him, and that you could not see him because he was too ill?

A.—I do not remember that.

Q.—Is it not true that the nurses who were in attendance upon Mr. Quinlan told you something to the same effect when you went to see Mr. Quinlan?

A.—Not that I remember of.

Q.—But, it is possible that is the case?

40 A.—I do not believe it.

Q.—You do not remember having gone to see Mr. Quinlan and having been refused permission to see him?

A.—No.

Q.—And, the last time you saw him before he died was two days before his death?

A.—No. If he died on the Sunday, it would be three or four days.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—A few days before Mr. Quinlan died you received a share certificate, which, according to you, had the signature of Mr. Quinlan on the back of it?

A.—Yes.

10 Q.—Where were you when you received that share certificate?

A.—In Mr. Quinlan's office.

Q.—Was that in the morning, or in the afternoon?

A.—I do not remember that.

Q.—Who were present then?

A.—I think Mr. Leamy.

Q.—Who gave you the certificate?

A.—I think Mr. Leamy, although I am not sure of that.

Q.—Who gave it to Mr. Leamy?

20 A.—I do not know.

Q.—Had Mr. Leamy the share certificate in his possession before he went to Mr. Quinlan's house?

A.—I have forgotten whether Mr. Leamy had it or not.

Q.—Had you an appointment with Mr. Leamy at Mr. Quinlan's house?

A.—Mr. Leamy and I used to go to Mr. Quinlan's house regularly together.

Q.—And, at that time you were together?

A.—That is my recollection.

30 Q.—Did you go into the house together?

A.—I cannot remember that. We used to go there together in a car.

Q.—And, you would enter the house together when you went together?

A.—Yes, usually.

Q.—When you went to Mr. Quinlan's house together in the car, does it not follow, as a matter of fact, that you always entered the house with him?

40 A.—That would be the practice. My recollection is we would go in together.

Q.—And, that time you went in together?

A.—I have forgotten. I think so. I have just forgotten the details of it.

Q.—Do you remember having gone with Mr. Leamy to Mr. Quinlan's house, and Mr. Leamy or yourself entering first and the other going in afterwards?

A.—I do not remember Mr. Leamy or I entering first or second. I do not remember that.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You always went in together, so far as you can remember?

A.—I would not say that. He might go in, and I might sit outside. He might just run in.

10 Q.—When I speak of the house, I do not mean the room: I mean Mr. Quinlan's residence?

A.—I would not remember how I entered the residence.

Q.—Did you go with Mr. Leamy to Mr. Quinlan's residence that day?

A.—That is my recollection, although I have forgotten.

Q.—Who were present besides your self and Mr. Leamy?

A.—I do not know now.

Q.—Who handed the certificate to you?

A.—I thought it was Mr. Leamy, but I have forgotten.

20 Q.—And, you were in Mr. Quinlan's residence at the time the certificate was handed to you?

A.—Or I got the certificates. I have just forgotten where I got them.

Q.—You said a moment ago it was given to you in Mr. Quinlan's residence?

A.—That is my recollection.

Q.—So, according to your recollection the share certificates was given to you in Mr. Quinlan's residence?

A.—Given to me some time, any way.

30 Q.—I am not asking about the time. I am asking as to the place.

A.—I have forgotten where it was given to me.

Q.—But, according to your recollection it was in Mr. Quinlan's residence?

A.—I have never thought of the incident since, so I have not it in my mind.

Q.—Do you remember having said a moment ago that according to your recollection it was in Mr. Quinlan's residence?

40 A.—That was my recollection.

Q.—Is it still your recollection?

A.—Yes.

Q.—Was there anyone else present at that time?

A.—I do not remember.

Q.—Were the nurses present?

A.—I do not remember that.

Q.—Was the doctor present?

A.—I do not remember that he was.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You did not see Mr. Quinlan personally that day?

A.—Certainly I did.

Q.—You saw him personally?

A.—Surely.

10 Q.—Where were you talking with him that day?

A.—I do not remember that.

Q.—Do you remember if this was in the morning or the afternoon?

A.—I do not remember what time of the day it was.

Q.—Was it at night?

A.—I do not remember. If Mr. Leamy were with me he might remember.

Q.—Were you with Mr. Leamy that day when you saw Mr. Quinlan?

20 A.—That is my recollection.

Q.—So, when you spoke to Mr. Quinlan that day you were with Mr. Leamy?

A.—I would say so, but I have forgotten the incident.

Q.—The share certificate was given to you outside Mr. Quinlan's room?

A.—I cannot remember just where I got the share certificates.

Q.—But, a moment ago you said that according to your recollection it was in Mr. Quinlan's house?

30 A.—Yes.

Q.—After that I asked you if it was still your recollection that it was in Mr. Quinlan's house and you said it was?

A.—Yes.

Q.—Now do you persist in saying that according to your recollection it was in Mr. Quinlan's house?

A.—Yes.

Q.—So, according to your recollection you received the share certificate in Mr. Quinlan's house?

40 A.—I am not clear on it. I told you that in the beginning. I am not clear just how I got the share certificate.

Q.—According to your recollection the share certificate was given to you in Mr. Quinlan's house?

A.—That is my recollection, but, as I told you before, I have forgotten about the incident.

Q.—But, according to your recollection it was in Mr. Quinlan's house?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Was it in Mr. Quinlan's room?

A.—I have forgotten that feature of it.

Q.—At all events, it was Mr. Leamy who gave it to you?

A.—That is my recollection.

10 Q.—So, if Mr. Leamy gave it to you he did not give it to you in Mr. Quinlan's room?

Witness:—Why?

Counsel:—Because otherwise Mr. Quinlan would have given it to you personally.

A.—No, he would not. Mr. Leamy had the custody of many things of Mr. Quinlan's, and mine, that we paid no attention to, and he just handed them to me. Mr. Leamy has had the custody of stock certificates of mine and Mr. Quinlan's.

20 Q.—So, Mr. Leamy had the share certificate in his possession?

A.—I think so, although I am not clear on it. I am not at all certain just how I came into the certificate at all.

Q.—Where were the certificates belonging to Mr. Quinlan held or kept by Mr. Leamy? Were they kept at the office, or were they kept somewhere else?

A.—I would say in the office.

30 Q.—So, if Mr. Leamy had the custody of the share certificate of Mr. Quinlan he had it under his care at the office?

A.—I should think so: or in the Bank, — I do not know.

Q.—If it were at the Bank, or at the office, Mr. Leamy had the power to take possession of it?

A.—He would, if Mr. Quinlan gave it to him.

Q.—Are you sure Mr. Quinlan gave it to him?

A.—No, I am not, but I am sure Mr. Quinlan endorsed the certificate.

40 Q.—Were you present when it was endorsed?

A.—Sure.

Q.—You were present when it was endorsed?

A.—That is my recollection.

Q.—You just said "Sure". Now you say it is your recollection. As a matter of fact, is it your recollection, or are you sure, it was signed in your presence?

A.—My recollection.

Q.—So, you are not sure?

A.—I have not a clear recollection of it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—If you have not a clear recollection of it, and are not sure the share certificate was endorsed in your presence? Would you mind answering?

10      Witness:—If I am not sure of what?

Counsel:—Of having seen Mr. Quinlan endorsing the share certificate on that day. Would you mind answering?

Mr. Beaulieu:—(To the witness): Take your time, Mr. Robertson.

Witness:—I am trying to think of the incident. If I could get something to refresh my memory on it I might be able to  
20 answer you. A man like myself would not take any note of those things to any extent.

By Mr. Masson, Continuing,

Q.—But, you are sure Mr. Leamy was with you?

A.—That is my recollection.

Q.—And, what day was that?

A.—About a week before Mr. Quinlan died, I should think.

30      Q.—Are your share certificates endorsed?

Witness:—What certificates?

Counsel:—Those which are in the possession of Mr. Leamy.

A.—No.

Q.—They are not?

A.—No.

40      Q.—Is it not true, that as a matter of fact, the share certificates of Mr. Quinlan had been endorsed a long time before you went to see him?

A.—No.

You had my share certificates here the other day.....

Q.—You are positive Mr. Quinlan's share certificates had not been endorsed a long time before you went to see him?

A.—Yes, absolutely certain.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—If you did not see Mr. Quinlan endorsing the certificate, you do not know when it was endorsed?

A.—I know Mr. Quinlan and I never made a practice of endorsing our companies' certificates to anyone. You had mine  
10 here the other day.

Q.—But, those are new share certificates?

A.—No, they are the original shares issued to me.

Q.—You do not remember anyone else besides Mr. Leamy being present on the occasion we are speaking of?

A.—No, I do not.

Q.—Is it not true that share certificate was brought to your office?

Witness:—By whom?

20

Counsel:—By the messenger who was driving your car, or the car of someone else.

A.—No.

Q.—Is it not true a telephone call was made to Mr. Quinlan's residence in order to obtain that share certificate, and that you sent a messenger who got it and brought it back to you or to your lawyer?

A.—Not to my knowledge. Not that certificate,  
30

Q.—Which certificate was it?

A.—No certificate that I know of.

Q.—Did you send anyone to get some papers at Mr. Quinlan's house a few days before he died?

A.—I do not remember having sent anyone to Mr. Quinlan's house.

Q.—But, it is possible you sent someone to get some papers?

A.—I do not know. Mr. Quinlan used to have Mr. Leamy going back and forth, paying his household accounts, and so on. That was in progress all the time.  
40

Q.—How many share certificates were handed over to you that day?

A.—I think three.

Q.—Which ones?

A.—One for 50 shares of Amiesite, and Dunlop's 200 shares, and the Quinlan & Robertson & Janin, Limited, certificate.

Q.—What about the Ontario Amiesite?

A.—That may have been too.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And, the share certificate of Dunlop was handed over to you at the same time as that of Mr. Quinlan?

A.—I got it about that time. I have not a recollection of just when.

10 Q.—Did you get all those share certificates at the same time?

A.—I do not know. The date of entry on the books would show that.

Q.—So, the dates of the endorsements on the share certificates would be the dates the share certificates were handed over to you?

A.—No, I would not say that. The certificates would have to go back to the auditor, or the secretary, and it might take a day or two to get them endorsed. That does not apply to the Ontario Amiesite, because it would have to go to Toronto.

20 Q.—When were the entries made in the books of those different companies?

A.—They were made by the auditor, not by me. I did not have anything to do with it.

Q.—After having received those share certificates did you personally attend to the transfer being registered on the books of the company?

A.—I just handed them in, and they transferred them.

Q.—When did you hand them in?

30 A.—The transfer dates would be within a day or two. I handed them in to the office, and they were transferred there.

Q.—Within a day or two after you received them from Mr. Leamy?

A.—Yes, that is my recollection.

Q.—In whose name were those share certificates registered?

A.—Mr. Hugh Quinlan.

Q.—Into whose name were they transferred?

A.—Mine.

Q.—Apparently?

40 A.—Are they not there? Are not the certificates still in my possession?

Counsel:—I do not know.

Witness:—You had them here.

Counsel:—Not the share certificates.

Witness:—You had my certificates.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Counsel:—We had the one that was given you after the transfer, but not the other.

Witness:—I see what you mean now.

10

By Mr. Masson, Continuing,

Q.—How many times did you see Mr. Quinlan after the different share certificates were handed over to you by Mr. Leamy?

A.—I do not remember.

Q.—You did not see him at all?

A.—I saw him just before I went away. I do not remember whether I saw him every day just previous to that or not.

20 Q.—You saw him on the Wednesday or the Thursday you spoke of a few minutes ago?

A.—I did not keep a record of the days I went in to see him.

Q.—You say you saw Mr. Quinlan previous to the day Mr. Leamy handed the share certificates over to you?

A.—My recollection is I saw him nearly every day when I was in town.

Q.—Were you in town during the three weeks previous to the handing over of the share certificates by Mr. Leamy?

A.—I may have been out of town, but I was home most of the time.

30 Q.—So you saw Mr. Quinlan at least every day during that period of time?

A.—That is my recollection. I was out driving with him four weeks before.

Q.—Sometimes you saw him several times a day?

A.—No.

Q.—What was the usual time of the day you went to see him? Would it be in the morning going to your office, or at noon, or at night, or in the afternoon?

40 A.—Mr. Leamy and I would frequently go over at noon. Sometimes I used to drop down there at night, and sometimes I went there in the afternoon. I would go any time.

Q.—The share certificate issued in the name of Dunlop as nominee for Mr. Quinlan was endorsed by Dunlop?

A.—Mr. Dunlop, yes.

Q.—When was that?

A.—Sometime about the same date as the other transfers were made.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Was the share certificate of Dunlop as endorsed (or as supposed to be endorsed) by him, handed over to you at the same time as the other share certificates?

A.—I think so, but I am not sure of that.

10 Q.—Who had possession of Dunlop's share certificate before it was handed over to you by Mr. Leamy?

A.—My recollection is, Mr. Quinlan.

Q.—Where was that certificate kept?

A.—I do not know that.

Q.—At Mr. Quinlan's residence, or at the office?

A.—It may have been. I do not just know where he kept them. Probably in the office, or probably at his residence — I do not know.

Q.—How old was Mr. Quinlan at that time?

20 A.—About seventy, I think.

Q.—Mr. Quinlan's death was not a surprise to you, because you know he had been ill a long time?

A.—He was ill quite a long while.

Q.—You were not surprised when you heard he was dead?

A.—I knew he was in a very bad state for two days before he died.

Q.—Only two days?

A.—I am not a medical man.

30 Q.—I mean you knew in so far as a man who is not an expert in medicine could foresee?

A.—I know he was out driving with me four weeks before he died, and he told me he was going to Belleville.

Q.—And, after that he went to bed?

A.—He went to bed, and got up, and went to bed again. He was up and down all the time.

Q.—How long was he in bed without being able to walk about or sit up?

40 A.—One of our men told me he was out for a drive with him the Sunday before he died. They were down to see the Bridge.

Q.—Who told you that?

A.—Mr. Marcotte told me that.

Q.—What is Mr. Marcotte's first name?

A.—U. Marcotte.

Q.—Before going to look at the bridge he had been in bed for a long time?

A.—He was in bed a great deal of the time. He used to be up and down.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And, after he went to look at the Bridge he went back to his house and he went to bed for good?

A.—I do not know that.

Q.—You know he died in the week after?

10 A.—I know he died about a week after yes.

Q.—You know he was in a comatose state on the Friday?

A.—I was not there. I only know it from hearsay.

Q.—I understand the share certificates that were handed over to you by Mr. Leamy were endorsed on the day mentioned on the backs of the share certificates?

A.—Yes.

By Mr. Tanner:—

20 Q.—How many shares did Mr. Quinlan have in the firm of Quinlan & Robertson?

A.—He and I had the whole of the stock. The company went out of existence years ago. We had equal shares of whatever was issued.

Q.—What was the number of shares?

A.—I have no idea what shares were issued, but I know he had 50% and I had 50%.

Q.—Have you any idea of the number of shares?

30 A.—No. Mr. Leamy might remember that.

Q.—In any event, you and Mr. Quinlan had an equal share?

A.—Yes.

Q.—You say the company went out of existence? Are you sure of that statement?

A.—Surely. It went out of existence so far as we were concerned. We may not legally have wound it up, or something of that kind, but we divided the assets.

Q.—You mean it ceased to carry on business?

A.—Yes.

40 Q.—Looking over the inventory I fail to see you included the shares that Mr. Quinlan owned in Quinlan & Robertson, Limited?

A.—There were no shares.

Q.—Was not this a limited company?

A.—Yes, but the company went out of existence years ago and the assets were divided.

Q.—But, that does not change the situation. The company had not been legally wound up, and, therefore, the shareholders still had their shares?

A.—They had no value.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—That is a matter to be decided later on. The point I am now questioning you on is why they were not included in the inventory, such as they were?

10 A.—I never thought of it until you brought it to my attention. I have none of them.

Q.—Are you sure Quinlan & Robertson, Limited, had no assets of any kind left at the time of Mr. Quinlan's death?

A.—Unless Mr. Leamy failed to transfer some unimportant property to them.

Q.—What do you mean by unimportant property?

20 A.—I mean unimportant from the standpoint of money. For instance, we have several old houses and parcels of land at Crookston, and the understanding was they were to be all transferred to A. W. Robertson, Limited, or to Hugh Quinlan and myself. That may have been neglected, but Mr. Quinlan would be as much responsible for it as I would because he was the man who looked after the Crookston matter more than I did.

Q.—The fact remains, however, that you did not include in the inventory the shares owned by Mr. Quinlan in Quinlan & Robertson, Limited?

A.—If there are any would I not have some of them myself, and if they were of some value would I not know about it?

30 Q.—But, that is not the question I asked you. The fact remains that you did not include the shares owned by Mr. Quinlan in Quinlan & Robertson, Limited, in the inventory which you have filed as Exhibit P-2, which is dated June 26th, 1927. That is the fact, is it not?

A.—It is a fact they are not there, because there were none that I knew of.

Q.—Were they filed anywhere else?

A.—Not that I know of.

Q.—Did you take steps after June 26th, 1927, to correct the inventory so as to include those shares?

40 A.—I certainly did not, because I did not know they were in existence.

Q.—You did not know they were in existence?

A.—No.

Q.—How is that? That requires an explanation?

A.—When the Company went out of existence the assets were all divided between Mr. Quinlan and myself, and that was all there was to it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—But, a division of the assets does not destroy the existence of the shares. It may render them without much value, but the shares are still in existence?

A.—Mr. Quinlan may have them in his possession, or they may be in his possession somewhere. I do not know where mine  
10 are. I never saw them since.

Q.—So, according to you, those shares were absolutely valueless?

A.—Worthless.

Q.—Is it not a fact that on November 4th, 1919, A. W. Robertson, Limited, purchased from Quinlan Robertson Limited certain properties for the price of \$75,000, payable in shares of A. W. Robertson, Limited, to Quinlan & Robertson, Limited, the whole as appears by By-law No. 16, to be found at page 25 of the Minute Book of A. W. Robertson, Limited?

A.—We purchased this land from the old company, and got  
20 in return stock certificates in A. W. Robertson, Limited, of which Mr. Quinlan and I had fifty fifty.

Mr. Tanner:—I object to the last part of the answer as being in contradiction of a writing, and as not constituting evidence.

By Mr. Tanner, Continuing,

Q.—Is it not a fact that according to this by-law No. 16, the  
30 whole as appears at page 25 of the Minute Book of A. W. Robertson, Limited, the price paid for certain assets of Quinlan & Robertson, Limited, then transferred to A. W. Robertson, Limited, was 750 paid up shares of \$100.00 each in the capital stock of A. W. Robertson, Limited, paid over to Quinlan & Robertson, Limited, as the whole appears by that Minute?

A.—I cannot understand how it would be paid to Quinlan & Robertson. It would be paid to Hugh Quinlan and A. W. Robertson.

Q.—But, that is not an answer to my question.  
40

Mr. Beaulieu:—(to witness) Give your answer as you please. You are entitled to see the Minutes, and you are entitled to say they are not correct, if you wish. Just give the facts as you know them.

Witness:—I interpret it in this way: it says: "To be issued in favor of and allotted to the said Quinlan & Robertson, Limited, or their nominees". Their nominees were Hugh Quinlan and myself.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Tanner, continuing:—

Q.—Did Quinlan & Robertson, Limited, ever pass a resolution stating who the nominees of Quinlan & Robertson, Limited, were for the purpose of receiving the said shares?  
10

A.—I presume so.

Q.—You presume there is a resolution in the Minute Book of Quinlan & Robertson, Limited, stating who are the nominees of Quinlan & Robertson, Limited, for the purpose of receiving those 750 shares?

A.—Yes.

Q.—Are you positive of that?

A.—No, but that would be a natural corollary.

Q.—Will you file a copy of By-law No. 16, authorizing the purchase of certain immoveable property? This By-law will be found at pages 23, 24 and 25 and 26 of the Minute Book of A. W. Robertson, Limited.  
20

Mr. Beaulieu:—I object, inasmuch as the witness is not bound to file any copies.

By Mr. Tanner, continuing:—

Q.—Is it not a fact that the Minute Book of A. W. Robertson, Limited, at pages 23 and following, contains the following By-law :—  
30

“ 16.—*Power to buy certain immoveable property.*

Whereas, the Company is authorized by its Letters Patent to acquire the goodwill, rights, property and assets of all kinds, and to undertake the whole or any part of the liabilities of and to take over as a going concern or otherwise the business now carried on by Quinlan & Robertson, Limited, as well as to acquire lands, houses, stores, buildings, plants, tools, and all kinds of property moveable or immoveable, and to pay for same in cash shares of this company, bonds or otherwise;  
40

Whereas, the said Quinlan & Robertson, Limited is willing to sell to the company (1) its Verdun property, viz six lots of land situated in the City of Verdun, known and desi-

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

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gnated as being lots Nos. 4386, 4387, 4372, 4373, 4408 and 4409 of the official plan and book of reference of the municipality of the Parish of Montreal, with the buildings thereon erected: (2) its Aubertin property, viz (a) the southeast portion of that certain farm known as No. 1000 of the Official Plan and Book of Reference for the Parish of Lachine, being of irregular figure measuring 291 feet in width and its southeast end, by a depth of 262 feet English measure in its southwest line where it measures 298 feet 5 inches in the continuation of the said southwest line, by the width of said lot No. 1000, and containing a total area of 16 arpents 70 perches and 73 square feet: bounded as follows: To the northwest by the surplus of said lot 1000, southeast by a portion of lot 1024 upon the said official plan; to the southwest by a portion of lot No. 998 upon said Official Plan; and to the northeast by a portion of lot 1001, hereinafter described. (b) That certain portion of land known as No. 1001 upon the Official Plan and Book of Reference for the Parish of Lachine, being of irregular figure and containing a total area of 25 arpents 82 perches and 157 square feet, with right of passage on foot or with vehicles upon the northeast part of lot 1007 upon said Official Plan to communicate from the land presently sold to the Public Road to the south side of the Lachine Canal, subject to the right to change the position of said road from time to time at the option of the party from whom the present vendors acquired the said immovable. As the whole now is with all the rights, servitudes of passage, members and appurtenances thereto belonging, and without any reserve whatsoever on the part of the said vendor. The land presently sold being shown colored green upon the plan prepared by J. P. B. Casgrain, land surveyor, on March 23rd, 1910.

40

For the sum and price of \$75,000, payable in shares of this Company, viz. 750 paid up shares of \$100.00 each in the capital stock of this Company, the said Company undertaking to pay the taxes as well as the seigneurial duties and rights and charges from the first of November, 1919.

*It is unanimously resolved:* that the Company do purchase from Quinlan & Robertson, Limited, the above described immovable properties for the price of \$75,000, and that paid up stock of the Company be issued in favor of and

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

allotted to the said Quinlan & Robertson, Limited, or their nominees in final payment of the purchase price of the above mentioned properties, viz. 750 paid up shares of \$100.00 each in the capital stock of the said company;

10

And that the President and Secretary of the Company be authorized to sign any deeds, documents, or certificates necessary to carry out the present by-lay."

Witness:—It says 25 arpents there, does it not? There are two pieces: 16 arpents in one, and 25 arpents in another.

Q.—Does the Minute Book contain the By-law as I have read it?

20

A.—Yes.

Q.—Is it not a fact that those 750 shares of A. W. Robertson, were issued to Quinlan & Robertson, Limited?

A.—They were issued by A. W. Robertson to Quinlan and myself.

Q.—Not to Quinlan & Robertson, Limited?

A.—No. There was no Quinlan & Robertson existence.

Q.—I am going back now to November, 1919, at the time this contract was passed. This By-law provides for the issue of 750 shares of the capital stock of A. W. Robertson, Limited, to Quinlan & Robertson, Limited?

30

A.—Or its nominees.

Q.—Were those shares issued to Quinlan & Robertson, Limited, at that time?

A.—No.

Q.—To whom were they issued?

A.—Mr. Quinlan and myself. I would have to get the books to know just when they were issued. Mr. Quinlan and I had fifty fifty in whatever it was.

40

Q.—I see in the stock book of A. W. Robertson, Limited, at page 7, the name at the top of the page is "Quinlan, Hugh; occupation, contractor; address, 357 Kensington Avenue, Westmount". At the left there is the date: "1919, December 23rd — to whom, or from whom; treasury, — certificate No, 2, 925 shares". And I note on the same date an equal number of shares was also issued to you. What was the consideration for the issue of those shares at the time?

A.—I presume those properties, or something I do not remember now.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—I also see: “January 23rd, 1920; Treasury, 510 shares” and “December 15th, 1925; Treasury, 150 shares”. This forms a total of 1586 shares standing in the name of Mr. Hugh Quinlan. Is it not a fact that at the time those shares were issued this number  
10 did not include the one half of the said 750 shares of which we have already spoken, to wit, 375 shares?

A.—Those are all the shares Mr. Quinlan had in the Company. He and I had the same number of shares, with perhaps a couple of shares more in my name than in his, but the dividends were always divided fifty fifty.

Q.—But, what I want to know is if in this total number of 1586 shares are included the 375 shares — that is to say, one half of the 750 shares mentioned in By-law No. 16?

A.—I should think so.

20 Q.—Do you swear that you know, or do you not know?

A.—I do not know. I know Mr. Quinlan was not entitled to any more shares than I was, and if Mr. Leamy handed out those shares to us they were correct.

Q.—Do you swear the books of Quinlan & Robertson, Limited, do not show that 750 shares were originally issued to Quinlan & Robertson, Limited, and were then issued to you and to Mr. Quinlan personally?

30 A.—I do not swear what the books show. I do not know what they show. I know one half of it was mine, and one half was Mr. Quinlan's.

Q.—As a matter of fact, it belongs to the company, does it not?

Mr. Beaulieu:—That is a question of law.

Witness:—He and I were fifty fifty in that company.

By Mr. Tanner, Continuing,

40 Q.—If that be the case why did you or your lawyer take the trouble to pass a resolution after Mr. Quinlan's death, as found in the Minute Book of A. W. Robertson, Limited, in connection with those 750 shares?

A.—There may have been some mistake. I do not know anything about it.

Q.—Is it not a fact that on February 12th, 1929, A. W. Robertson, Limited, at a meeting of the Directors, passed the following Resolution:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 “It is hereby declared that the issue of 375 shares of the capital stock of the Company in favor of A. W. Robertson, and the issue of 375 shares of the capital stock of the Company in favor of Hugh Quinlan, which shares are represented by certificates Nos. 1 and 2 respectively of the share certificates of this company, dated 23rd December, 1919, were lawfully issued to the said A. W. Robertson and Hugh Quinlan as nominees of Quinlan & Robertson, Limited, the whole upon instructions of Quinlan & Robertson, Limited”.

A.—That is there, and it is, no doubt, correct.

Q.—Was the following minute in fact passed on August 8th, 1927, by the Board of Directors of A. W. Robertson, Limited:—

20 “Montreal, August 8th, 1927.

Mr. Robertson acted as Chairman of the Meeting.

Mr. Leamy acted as Secretary of the Meeting.

The Minutes of the last meeting were read, approved, and adopted.

30 On motion of Mr. Robertson, seconded by Mr. Leamy: That a by-law be passed for the purchase and the sale of certain lands, to be known as By-law No. 22:

*By-law 22.* Resolved that this Company do purchase from Quinlan & Robertson, Limited, all lands and premises and other immoveable property of the Company situated on the eighth, ninth and tenth concessions of the Township of Huntingdon, in the Country of Hastings, Province of Ontario.

40 That this Company do purchase from Quinlan & Robertson, Limited, all lands and premises and other immoveable property of the Company situated on the third, fourth and fifth concessions of the Township of Huntingdon in the County of Hastings, Province of Ontario. All for \$1.00.

That this Company do purchase from the Crookston Quarries, Limited, all lands and premises and all other im-

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

moveable property of the Company situated on the 8th, 9 and 10th concessions of the Township of Huntingdon in the County of Hastings, Province of Ontario.

10 That this Company do sell to the Fuller Gravel, Limited, all lands, premises and other immoveable property of the Company situated on the third, fourth and fifth concessions of the Township of Huntingdon, in the County of Hastings, Province of Ontario.

20 That the President, A. W. Robertson, be and he is authorized to sign all deeds and documents necessary to carry out the purchase and sale and conveyances of said lands and immoveable property of the said company on behalf of the Company.

There being no further business, the meeting then adjourned.

A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.”

30

Witness:—If that is the date, it is the date they were passed so far as I know.

Q.—The signature “A. W. Robertson” at the foot of that minute is your signature?

A.—Yes, that is my signature. I would say it is perfectly correct.

40 Q.—I notice that on the 8th August, 1927, it was resolved to purchase from Quinlan & Robertson, Limited. Do you still persist in saying that this Company was out of existence on August 8th, 1927?

A.—It should have been, of course, but they made a mistake holding that property apparently.

Q.—But, we are not speaking about a mistake, which you now allege.

Mr. Beaulieu (to the witness) You are entitled to say there is a mistake, if there is one.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Tanner, Continuing,

Q.—The issue is not whether there was a mistake. The issue is do you still persist in saying that on August 8th, 1927, Quinlan & Robertson, Limited, was not in existence?  
10

A.—So far as Mr. Quinlan and I were concerned it was out of existence for years. Our bookkeeping department made a mistake in not transferring those properties. That is all there is to it. They are all in the name of A. W. Robertson, Limited, and the Quinlan Estate and I are fifty fifty today.

Q.—Is it not a fact that there was no Deed in existence between Quinlan & Robertson, Limited, and A. W. Robertson, Limited, prior to August 8th, 1927, transferring the land situated  
20 on the 8th, 9th and 10th concessions of the Township of Huntingdon, County of Hastings, Province of Ontario, as well as lands, premises and other immoveable property of the Company situated on the 3rd, 4th and 5th concessions of the Township of Huntingdon, County of Hastings, Province of Ontario.

A.—That is what it looks like from that. It was not attended to.

Q.—What do you mean by saying it was not attended to? Was there or was there not a contract between those two companies prior to that date?  
30

A.—To us the property should have been transferred long before, and Mr. Quinlan and I no doubt were under the impression it was.

Q.—But, I am not discussing your impressions. I wish to know whether, as a matter of fact .....

A.—(interrupting) I do not know anything about it. There are the Minutes. The property is now in the possession  
40 of A. W. Robertson, Limited.

Q.—Properties that formerly belonged to Quinlan & Robertson, Limited?

A.—I do not know to whom they belonged, only from what is there.

Q.—And, did belong to this latter company on the 8th August, 1927?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Mr. Beaulieu:—The witness said he did not know.

By Mr. Tanner, Continuing ,

10 Q.—Who would know?

A.—I would think Mr. Leamy would know, or some of the other people who are supposed to look after those things.

What difference does it make, any way, so long as it all went back to Mr. Quinlan and myself in equal proportions?

Q.—But, that is not the issue. The fact is you left out of the inventory the shares Quinlan & Robertson, Limited, and we claim those shares have a value, and the value was backed up by  
20 those properties.

Mr. Beaulieu:—That is an argument.

Witness:—Were not the shares all given to us for stock in A. W. Robertson, Limited?

By Mr. Tanner, Continuing,

30

Q.—The minutes and the agreements and contracts speak for themselves, of course.

A.—No, they do not. They merely indicate that through carelessness this property was not transferred when it should have been.

Q.—Is it not a fact that there is absolutely no resolution in A. W. Robertson, Limited, and in Quinlan & Robertson, Limited, prior to August 8th, 1927, referring directly or indirectly to the transfer of the properties in the County of Hastings, Province  
40 of Ontario.

A.—That is what it looks like from that record, but they are all in A. W. Robertson, Limited, now, so far as I know.

Q.—And, prior to August 8th, 1927, they were vested in Quinlan & Robertson, Limited?

Mr. Beaulieu:—I object to this as being a question of law. The witness cannot state whether they were or were not.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Tanner, Continuing,

Q.—What was the municipal valuation of those properties in the month of August, 1927?

10 A.—I suppose about \$2500.00 or \$3000.00 or something like that.

Q.—For the two properties, or \$2500.00 or \$3000.00 each?

A.—I only know this: that all the properties we now have at Crookston, together with all the plant there, has been offered for sale for two years, and we have been trying to get \$5500.00 for it. That includes a piece of property that A. W. Robertson, Limited, paid \$2000.00 for four years ago. If it had any value we would have been looking after it more carefully.

20 Q.—Did I understand you to say that the properties of the 8th, 9th and 10th concessions of the Township of Huntingdon, County of Hastings, were valued at \$2500.00?

A.—I think the municipal value was \$2500.00.

Q.—Does this apply to the properties situated on the 3rd, 4th and 5th concessions?

A.—I am not familiar with the details of the properties. All I know is we tried to sell all the properties we have in A. W. Robertson, Limited, since that time for \$5500.00, together with the old plant there, and we cannot sell them. We have advertised them all over, or the Capital Trust has.

30 Q.—I was interested in the municipal valuation.

A.—I do not know it.

Q.—I notice the name Crookston Quarries, Limited. How many shares in this company were owned by Mr. Quinlan?

A.—I do not think there were ever any issued.

Q.—To how many shares was Mr. Quinlan entitled?

A.—The same as I would be, if there were any issued.

Q.—How much would that be?

40 A.—I do not think there were any issued. I know the properties are part of that, and have no value of any consequence.

Q.—You mean the Crookston Quarries has no value at all?

A.—No value of any consequence. We cannot sell the whole of the quarries and all the buildings and all the old plant, plus a property we paid \$2,000 for four years ago, for \$5500.00.

Q.—But, the fact that you cannot find a buyer does not show the property has no value?

A.—It has only the value you can sell it for, any way.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—But, there is a great difference between value in use, and selling value?

A.—If you have a piece of property, and advertise it extensively for two and a half years, and you cannot sell it for \$5500.,  
10 would not that be a fair index of its value?

Q.—When was Crookston Quarries, Limited, organized?

A.—Frankly I know very little about that.

Q.—Do you say Mr. Quinlan was not entitled to receive any shares in Crookston Quarries, Limited?

A.—The same as I would, and I have none now. They have no value, if they are in existence, anyway.

20 Q.—You mean you have not a stock certificate, but that does not alter the fact that you would be entitled to receive something in consideration for whatever assets were transferred to the Company?

A.—The assets are still there, and that is the value that has been placed upon them.

Q.—The fact remains that Mr. Quinlan and you were entitled to receive an equal number of shares, what ever the number may have been?

30 A.—If they were issued.

Q.—Not if they were issued. According to the agreement between Crookston Quarries, Limited, and yourself and Mr. Quinlan you were entitled each to receive an equal number of shares?

A.—You would have to get Mr. Leamy, or Mr. Tooman to tell you that. So far as I am concerned the quarry is still there, and I own fifty per cent of it and the Quinlan Estate owns the other fifty per cent, and if it has any value we will each get our shares.

40 Q.—Is it not a fact that you did not include the interest of Mr. Quinlan in Crookston Quarries, Limited, as a part of his assets, in the inventory which you made dated June 26th, 1927, Exhibit P-2?

A.—I was under the impression A. W. Robertson, owned all that property at the time. I thought it had all been transferred to us.

Mr. Tanner:—I object to the answer of the witness, as irrelevant and illegal.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Tanner, Continuing,

10 Q.—I will repeat my question: is it not a fact that you did not include the interest of Mr. Quinlan in Crookston Quarries, Limited, as a part of his assets in the inventory which you made dated June 26th, 1927, Exhibit P-2. which I now exhibit to you for inspection?

A.—What other answer can I give you?

Q.—Is it in the inventory, or is it not?

A.—Apparently it is not there, for I was under the impression it was all included in A. W. Robertson, Limited.

20 Mr. Tanner:—I object to the last part of this part of the answer as illegal.

By Mr. Tanner, Continuing,

Q.—What were the assets of Crookston Quarries, Limited, apart from those two properties?

A.—There are some old buildings and some old plant on the property.

30 Q.—Will you please tell me how it happens that on August 8th, 1927, a resolution was passed to the effect that A. W. Robertson, Limited, purchased from Quinlan & Robertson, Limited, lands and premises situated on the 8th, 9th and 10th concessions of the Township of Huntingdon, County of Hastings, Province of Ontario; and on the same day a resolution was passed purchasing apparently the same properties from Crookston Quarries, Limited — because it is stated there that the company purchases from the Crookston Quarries lands and premises and other immoveables property of the Company situated on the 8th, 9th and 10th concessions of the Township of Huntingdon, County of Hastings; which is apparently the very same property. How could the same property be thus purchased from two different companies? What is your explanation of that fact?

40 A.—Some properties may have been vested in Crookston Quarries, and some in other companies; all going to Quinlan & Robertson, Limited, and they all went back to A. W. Robertson, Limited, because they should have been there previously.

Mr. Tanner:—I object to this answer, unless documents or contracts are filed.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Witness (continuing) What other answer can I give you?

10 Mr. Beaulieu:—(to witness) Answer as you please, and the Court will decide whether your answer is good and sufficient, or whether it is not. You cannot answer otherwise than what you know. Your answer may not be satisfactory to my learned friend, but you must only answer on what you know.

By Mr. Tanner, Continuing,

Q.—The fact is you do not know how that comes about — and, if you do, what do you know?

20 A.—I know they should have been vested in A. W. Robertson previously, and they were not.

Mr. Tanner:—I object to the answer as illegal and irrelevant unless a writing is produced.

Witness:—What do you wish me to produce?

By Mr. Tanner, Continuing,

30 Q.—How does it come about that apparently the same properties in the County of Hastings were purchased from Quinlan & Robertson, Limited, and also from Crookston Quarries, Limited, by A. W. Robertson, Limited?

A.—If those companies had them, and if we wanted to get them into A. W. Robertson, Limited, would we not have to take them over? I do not know why this was done. I only know the properties are now vested in A. W. Robertson, Limited, and the reason was because we had intended that from the beginning. It makes no difference where they are.

40 Q.—You do not mean to say that the properties in the County of Hastings, Province of Ontario, situated in the 3rd, 4th and 5th concessions of the Township of Huntingdon are now the property of A. W. Robertson, Limited?

A.—If it says so there. I do not know.

Q.—In the first part it says this property was purchased from Quinlan & Robertson, Limited, but I see a little further on that on the very same day this property was sold to Fuller Gravel, Limited?

A.—Because that is where it should have been, in the Fuller Gravel, Limited.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You told us a little while ago it should have been in A. W. Robertson, Limited?

A.—I only know this was an attempt at correction, to put it where it should have been. The properties were not in their  
10 proper ownership.

Mr. Tanner:—I object to the answer as illegal and irrelevant, unless contracts and documents are produced proving the statement.

By Mr. Tanner, Continuing,

Q.—In connection with the contract on the Welland Ship Canal, which began in 1924, security in the sum of \$550,000 was  
20 deposited with the Federal Government?

A.—Yes.

Q.—Did you withdraw this guarantee from the Government?

A.—The money has been largely returned to Mr. Quinlan and myself personally.

Q.—By the Government?

A.—By the Government.

Q.—It is not there now?

A.—I do not know. Mr. Leamy keeps the books, and he  
30 could tell you. I think there is about \$150,000 there yet, but we were paid back by moneys from the Company. Mr. Leamy has the books, and it is all there. I do not know the details.

Mr. Tanner:—I object to the answer unless the witness produces a resolution of A. W. Robertson, Limited, to substantiate the declaration, and I declare I have found no such resolution in support of this statement.

By Mr. Tanner, Continuing,

40 Q.—According to you there is now in the hands of the Government, as security for the Welland Ship Canal, the sum of about \$150,000?

A.—\$100,000, I think. I am not sure now what it is.

Q.—Will you please look at the inventory of June 26th, 1927, and will you state if the sum now in the hands of the Government as security for the construction of the Welland Ship Canal (whatever that sum may be) appears in the inventory as a part of the assets of the late Mr. Quinlan?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—Mr. Quinlan's money has been returned to him no doubt, the same as mine. Of course it would not appear there only under the heading of being in possession of A. W. Robertson, Limited.

10

Mr. Tanner:—I object to the answer unless resolutions are produced in support of the statement, inasmuch as the witness tends to contradict by verbal testimony the minute which was passed by A. W. Robertson, Limited, on May 19th, 1924.

By Mr. Tanner, Continuing,

Q.—Was the following minute passed on May 19th, 1924, by the Board of Directors of A. W. Robertson, Limited:

20

“ Mr. Robertson acted as Chairman of the Meeting.

Mr. Leamy acted as Secretary of the Meeting.

The Minutes of the last Meeting of the Board of Directors were read, approved and adopted.

30

Mr. Robertson advised the meeting that a resolution was necessary in connection with the security deposited on Section No. 8 and the following resolution was unanimously adopted:

Whereas, this Company has entered into a contract with His Majesty the King (Department of Railways and Canals) dated the 27th day of February last, for the construction of Section No. 8 of the Welland Ship Canal, on the terms and conditions therein set out, and:

40

Whereas, in connection with said contract security the sum of \$550,000 was deposited with His Majesty's Government to guarantee the performance by this Company of the contract aforesaid, and:

Whereas the said security was furnished in the name and for the account of this company by Messrs. Hugh Quinlan and Angus W. Robertson personally, and this Company has no right title or interest therein:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 Be it therefore and it is hereby resolved: that this company acknowledges and confesses it has no right, title or interest whatsoever in the said \$550,000 of security presently deposited with His Majesty's Government of the Dominion of Canada as security for the performance of the contract aforesaid in reference to Section 8 of the Welland Ship Canal.

The meeting then adjourned.

(signed) A. W. Robertson,  
Chairman.

20 (Approved) Hugh Quinlan.  
(signed) L. S. Leamy,  
Secretary."

Witness:—Yes, those minutes were passed. I remember that.

Q.—Subsequently, and during the lifetime of Mr. Quinlan, was there a minute passed by A. W. Robertson, Limited, changing or modifying in any way the minute which I have just read to you?

30 A.—Not unless it appears in the minute book. Why would it be necessary?

Q.—Is it not a fact it does not appear in the Minute Book that this minute was changed or modified in any way by subsequent resolution?

A.—I do not remember it being modified or changed.

Q.—Out of this total sum of \$550,000 approximately how much money was left in the hands of the Dominion Government in connection with the contract security on June 26th, 1927?

40 A.—I do not think there was any left, of that money. The money that was there then was the money that was earned on the contract. That is my recollection.

Q.—You just told me there was a sum of about \$150,000. Now you say there was nothing left.

A.—I say the money that was there then was money that was made on the contract, and that Mr. Quinlan and I had got out our money that we put up. That is my recollection.

Q.—Do you mean to say the Government divested itself completely of this security of \$550,000?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I mean to say that we substituted other bonds for them. Mr. Leamy will tell you the story. I do not know it not, but I know we both got back our money.

10 Q.—And, that no security belonging to Mr. Quinlan or yourself personally is left in the hands of the Government?

A.—Not personally. My recollection is that we have no security personally there at all. Everything that is there now is the property of A. W. Robertson, Limited.

Mr. Tanner:—I object to the answer, unless it is supported by a resolution of A. W. Robertson, Limited, or other writing signed by Mr. Hugh Quinlan.

By Mr. Tanner, Continuing,

20

Q.—Will you please look for any writing signed by Mr. Hugh Quinlan personally in connection with this alleged substitution of security, and authorizing this substitution?

A.—Yes, I will consult the bookkeeper.

Q.—And, you will produce the writing at the next session of your examination?

A.—Yes, I will look for it.

30 And the further examination of the witness is continued until Wednesday next, November 6th, at 3 o'clock.

And further for the present deponent saith not.

J. Kenehan,  
Official Court Reporter.

40 And on this twelfth day of November, in the year of Our Lord One thousand nine hundred and twenty nine personally came and reappeared the said witness Angus W. Robertson and his examination was continued as Follows:—

By Mr. Tanner, K.C.,

Q.—I have in my hand the Minute Book of A. W. Robertson, Limited, and I wish to know if the following minute, which I will read to you, was duly signed by you as Chairman:



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

On motion of Mr. Robertson, seconded by Mr. Quinlan:

That the following by-law, to be known as by-law No. 18 of the company be enacted.

10

*BY-LAW No. 18*

Whereas, A. W. Robertson, Limited, hath borrowed from Messrs. Hugh Quinlan and Angus W. Robertson jointly a sum of Thirteen Thousand Five Hundred Dollars (\$13,500) which sum was used to pay off mortgage claim due and owing to Paul Aubertin;

20

Whereas, Messrs. Hugh Quinlan and Angus W. Robertson are desirous to obtain a security for the reimbursement of this loan and for the payment of the interest thereon accrued and to accrue:

*It is resolved:—*

30

That A. W. Robertson, Limited, shall give and grant in favor of Messrs. Hugh Quinlan and Angus W. Robertson jointly a mortgage to the extent of Thirteen Thousand Five Hundred Dollars (\$13,500) with interest thereon accrued and to accrue, and with an additional mortgage equal to Two Thousand and Twenty Five Dollars (\$2025.) to secure the accessories of said loan on and upon the following immovable:

40

1st.—the southeast portion of that certain farm known as No. 1000 upon the Official Plan and Book of Reference for the Parish of Lachine, being of an irregular figure, measuring Two Hundred and Ninety One Feet (291) in width at its southeast end by a depth of Twelve Hundred and Sixty Two feet (1262) English measure, in its southwest line, where it measures Two Hundred and Eighty Nine feet (289) in width and thence Eight hundred and ninety eight feet five inches (898'5") in the continuation of the southwest line, by the width of said lot No. 1000 and containing a total area of sixteen arpents, seventy perches and seventy three square feet, bounded as follows: — To the northwest by the surplus of said lot 1000, to the southeast by a portion of lot one thou-

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

sand and twenty four (1024) upon the said official plan; to the southwest by a portion of lot nine hundred and ninety eight (998) upon said plan, and to the northeast by a portion of lot one thousand and one (1001) hereinafter described:

10

2nd.—that the portion of land known as No. 1001 upon the official plan and book of reference of the Parish of Lachine, being of irregular figure and containing a total area of twenty five arpents, eighty two perches and one hundred and fifty seven square feet.

With right of passage on foot or with vehicles upon the northeast part of lot 1007 upon said official plan according to titles.

20

And that L. N. Leamy, the Secretary of A. W. Robertson, Limited, be authorized to sign and execute all deeds and documents required for the above purpose, subject to all and any the usual conditions and stipulations inserted in similar deeds.

*AND IT IS FURTHER RESOLVED* : To call a special meeting of the shareholders of the company to confirm and ratify this special by-law No. 18.

30

The meeting then adjourned.”

I see the signature “A. W. Robertson” immediately thereafter. Is that your signature?

A.—Yes.

Q.—And, I see to the left “Approved” and the signature of Mr. Hugh Quinlan. Is that Mr. Quinlan’s signature?

A.—Yes.

40

Q.—I also see the signature “L. N. Leamy”, as Secretary. Is that Mr. Leamy’s signature?

A.—Yes, that is his signature.

Q.—Will you please examine this minute book very carefully, and particularly the minute which I have just read, dated June 24th, 1922, and will you say if this minute was passed and adopted in the terms in which it is presently couched and as read to you?

A.—Yes, I think that is the correct minute. I signed it.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Is it not a fact that the following minute was passed and adopted, and that the signature “A. W. Robertson” which appears thereafter is your signature:

10 Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1680 St. Patrick Street, Montreal, Quebec, on the 20th day of February, 1923, at 2 p.m.

.....  
There were present: Mr. A. W. Robertson, Mr. Hugh Quinlan, Mr. L. N. Leamy.

20 The following waiver of notice of the meeting was signed by all the directors present:

We, the undersigned, being all directors of A. W. Robertson, Limited, do hereby waive notice of the time, place and purpose of the meeting, and do fix 2 p.m. February 20th, 1923, as the time, and the place 1680 St. Patrick Street, and the purpose being to enact a by-law to be known as by-law No. 19 of the Company to sell certain immoveable property to Hugh Quinlan and A. W. Robertson, and we do hereby waive all the requirements of the Statutes of Quebec and  
30 Canada as to the publication thereof.

Montreal, February 20th, 1923.

A. W. Robertson,  
Hugh Quinlan,  
L. N. Leamy,

Mr. Robertson acted as Chairman of the meeting.

40 Mr. Leamy acted as Secretary of the Meeting.

The Minutes of the last meeting were read approved and adopted.

On motion of Mr. Robertson, seconded by Mr. Quinlan;

That the following by-law to be known as By-law No. 19 of the Company be enacted:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

*BY-LAW No. 19*

10 That this Company do sell to Messrs. Hugh Quinlan and A. W. Robertson the following immoveable property situated in the City of Verdun, Quebec:

Lots Nos. 4408 and 4409 of the northwest corner of Verdun Avenue and Rielle Avenue, lots Nos. 4386 and 4387 on Rielle Avenue, lots Nos. 4372 and 4373 on Gordon Avenue.

And that the said sale of these six lots of land be made for good and valid consideration, and for the sum of one Dollar (\$1.) to be paid to this Company.

20 It was moved by Mr. Robertson, seconded by Mr. Quinlan, and unanimously carried and resolved:

That Mr. A. W. Robertson and L. N. Leamy be and are hereby authorized to sign all deeds and documents on behalf of the Company.

The meeting then adjourned.

30 A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.

Approved, Hugh Quinlan.”

Will you please state if this minute was passed on that date, and if it is correct, and if the signature “A. W. Robertson” is your signature?

40 A.—Yes, that is my signature, and these are the signatures of the others.

Q.—Was this minute passed and adopted on the date it purports to show, to wit, February 20th, 1923? And is it correct?

A.—I think so.

Q.—Will you please state if the following minute was passed and adopted by the Board of Directors of A. W. Robertson, Limited, on March 4th, 1924, and if the signature “A. W. Robertson” which appears thereafter is your signature?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

“Minutes of meeting of Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1680 St. Patrick Street, Montreal, Quebec, on the 4th day of March, 1924.

10

There were present: Mr. A. W. Robertson, Mr. Hugh Quinlan, Mr. L. N. Leamy.

The following waiver of notice of the meeting was signed by all the directors present:

20

We, the undersigned, being all directors of A. W. Robertson, Limited, do hereby waive notice of the time, place and purpose of the meeting, and do fix 1.30 p.m. March 4th, 1924, as the time, and the place 1680 St. Patrick Street, Montreal, and the purpose being the signing of contracts in connection with section No. 8 of the Welland Ship Canal.

And we do hereby waive all the requirements of the Statutes of Quebec and Canada as to the publication thereof.

Montreal, Quebec, March 4th, 1924.

30

A. W. Robertson,  
Hugh Quinlan,  
L. N. Leamy,

Mr. Robertson acted as Chairman of the meeting.

Mr. Leamy acted as Secretary of the meeting.

40

On motion of Mr. Robertson, seconded by Mr. Quinlan: that Mr. A. W. Robertson, the President, and L. N. Leamy, the Secretary of the Company, be and are hereby authorized to sign all subcontracts in connection with Section No. 8 of the Welland Ship Canal.

The meeting then adjourned.

A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.

Hugh Quinlan.”

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Is the signature "A. W. Robertson" your signature; and are the signatures "Hugh Quinlan" and "L. N. Leamy" the signatures of those gentlemen?

10 A.—Yes.

Q.—Was this minute passed on the date it purports to have been passed, to wit, March 4th, 1924?

A.—Yes.

Q.—Is this minute correct?

A.—I have no doubt it is.

Q.—Will you please state if the following minute was passed by the Board of Directors of A. W. Robertson, Limited, on the 3rd day of August, 1925, and if the signature "A. W. Robertson" which appears at the foot of the waiver of notice as well as at the  
20 foot of the said minute is your signature:

"Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1680 St. Patrick Street, Montreal, Quebec, on the 3rd day of August, 1925, at 10 o'clock in the forenoon.

There were present: Mr. A. W. Robertson, Mr. Hugh Quinlan, Mr. L. N. Leamy, being all directors of the company do hereby waive and have signed the following waiver of  
30 notice of this meeting:

We, the undersigned, do hereby waive notice of the time, place and purpose of the meeting, and do fix this third day of August at 10 o'clock in the afternoon as the time, and the place 1680 St. Patrick Street, and the purpose being the general transaction of business.

Montreal, Quebec, August 3rd, 1925.

40

Hugh Quinlan,  
A. W. Robertson,  
L. N. Leamy.

Mr. Robertson acted as Chairman of the meeting.

Mr. Leamy acted as Secretary of the meeting.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

The minutes of the last meeting were read approved and adopted.

10 It was moved by Mr. Robertson, seconded by Mr. Quinlan, and it was resolved: That, as understood from the inception of the Fuller Gravel plant, Hugh Quinlan and A. W. Robertson had supplied the funds for the construction and operation of the plant in question, time has arrived when this plant should be removed from A. W. Robertson, Limited, books.

It was moved by Mr. Robertson, seconded by Mr. Quinlan:

20 That the indebtedness of A. W. Robertson, Limited, to them should disappear from the A. W. Robertson, Limited, books, and that A. W. Robertson and Hugh Quinlan should be put in full possession of the Fuller Gravel plant.

This was unanimously carried.

The meeting then adjourned.

30 A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.

Approved: Hugh Quinlan."

40 Is the signature "A. W. Robertson" which appears at foot of the waiver of notice and the signature "A. W. Robertson" which appears at the foot of the minute, your signature?

A.—Yes.

Q.—Is the signature "L. N. Leamy" Mr. Leamy's signature?

A.—Yes.

Q.—And is the signature "Hugh Quinlan" Mr. Quinlan's signature?

A.—Yes.

Q.—Was this minute passed and adopted on the date it purports to have been passed, August 3rd, 1925, and is it correct?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Will you please state if the following minute was passed by the Board of Directors of A. W. Robertson, Limited, on May 15th, 1925, and if the signature which appears at the foot of the waiver of notice and at the foot of the said minute is your signature?  
10

“Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1680 St. Patrick Street, Montreal, Quebec, on the 15th day of May, 1925, at 10 o'clock in the forenoon.

There were present: Mr. A. W. Robertson, Mr. Hugh Quinlan, Mr. L. N. Leamy, being all directors of the company and have signed following waiver of notice of this meeting.

20 We, the undersigned, being all directors of the company, do hereby waive notice of the time place, and purpose of the meeting, and do fix 10 o'clock the 15th day of May, as the time, and the place 1680 St. Patrick Street, and the purpose being the passing of a by-law to purchase certain parcel of land at Ile Perrot, Quebec: and we do hereby waive all the requirements of the Statutes of Quebec and Canada as to the publication thereof.

30 Montreal, Quebec, May 15th, 1925.

A. W. Robertson,  
Hugh Quinlan,  
L. N. Leamy.

Mr. Robertson acted as Chairman of the meeting.

Mr. Leamy acted as Secretary of the meeting.

40 On motion of Mr. Robertson, seconded by Mr. Quinlan:

That the following by-law to be known as

*BY-LAW No. 21*

That this Company buy from Quinlan Robertson & Janin, Limited, certain strips of land situated at Ile Perrot, in the District of Montreal, in the County of Vaudreuil for the

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

sum of \$1. and other considerations, the whole as more fully described in the deed of sale to be passed before Mr. E. Gravel, N.P. of the City and District of Montreal, of the 22nd of May, 1925:

10

And that Mr. Hugh Quinlan, the Vice President, and Mr. L. N. Leamy, the Secretary, be authorized to sign for and on behalf of the Company all deeds to give effect to the said by-law.

This by-law is hereby approved and enacted.

The meeting then adjourned.

20

A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.

Hugh Quinlan,

A.—That is my signature.

30 Q.—Are the other two signatures respectively the signatures of Mr. L. N. Leamy and of Mr. Hugh Quinlan?

A.—Yes.

Q.—Was this minute passed on the date it purports to have been passed, to wit: May 15th, 1925; and is it correct?

A.—I think so.

40 Q.—Was the following minute passed by the Board of Directors of A. W. Robertson, Limited, on February 5th, 1926, and is the signature "A. W. Robertson" which appears at the foot of the waiver of notice as well as the signature "A. W. Robertson" which appears at the foot of the said minute, your signature?

Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1680 St. Patrick Street, Montreal, Quebec, on the 5th day of February, 1926, at 10 a.m.

There were present: Mr. A. W. Robertson, Mr. Hugh Quinlan, Mr. L. N. Leamy.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Being all directors of the company who have signed the following waiver of notice of the meeting.

10 We, the undersigned, being all directors of the company, hereby waive notice of the time, place and purpose of the meeting, and do fix 10 a.m. the 5th day of February, 1926, as the time, and the place 1680 St. Patrick Street, and the purpose being the granting of a yearly lease of the Crookston Quarry property.

And we do hereby waive all the requirements of the Statutes of Quebec and Canada as to the publication thereof.

Montreal, February 5th, 1926:

20 A. W. Robertson,  
Hugh Quinlan,  
L. N. Leamy,

Mr. Robertson acted as Chairman of the meeting.

Mr. Leamy acted as Secretary of the meeting.

30 The Secretary then read the minutes of the last meeting of the Board of Directors, which were approved and adopted.

It was moved by Mr. Robertson, seconded by Mr. Quinlan, and unanimously adopted:

40 That the Company do grant unto Quinlan Robertson & Janin, Limited, a lease of the Crookston Quarry bearing deed No. 9061, which quarry is located in the Township of Huntingdon, County of Hastings, Province of Ontario. Said lease to continue in force so long as Quinlan Robertson & Janin, Limited, or their assigns or successors require it for the purpose of procuring cut stone for their (Quinlan, Robertson & Janin, Limited) Montreal south shore bridge contract. This lease to be at a yearly rental of one dollar (\$1.)

There being no further business, the meeting then adjourned.

A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.

Approved: Hugh Quinlan.”



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—That is my signature. Of course I do not know whether the number 9061 is correct or not.

Q.—But, appart from the number of the deed is the minute correct?

10 A.—Yes. We granted them a lease.

Q.—Is the minute correct, apart from the number of the deed?

A.—We granted them a lease of the quarry.

Q.—Was this minute passed on February 5th, 1926?

A.—Yes. I signed it.

Q.—Was it passed by the Board of Directors of A. W. Robertson, Limited?

A.—Yes. I signed it.

20 Q.—Was the following minute passed by the Board of Directors of A. W. Robertson, Limited, on May 3rd, 1928, and is the signature “A. W. Robertson” at the foot of the waiver of notice, as well as the signature “A. W. Robertson” at the foot of the minute, your signature?

“Minutes of Meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1680 St. Patrick Street, Montreal, Quebec, on the 3rd day of May, 1928.

30 There were present: Mr. A. W. Robertson, Mr. L. N. Leamy, Dr. B. G. Connolly.

We, the undersigned, being all directors of A. W. Robertson, Limited, and being a quorum, do hereby waive notice of meeting, and mutually agree for the purpose that the meeting shall be as valid and regular as if the notice had been received.

40

A. W. Robertson,  
L. N. Leamy,  
B. G. Connolly.

The President, Mr. Robertson, acted as Chairman of the meeting.

Mr. Leamy acted as Secretary of the meeting.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

The minutes of the last meeting were read, approved and adopted.

10 Mr. Robertson reported that he had signed an agreement to pool the stock of the National Sand & Material Company, Limited, of Welland, which stands in the name of A. W. Robertson, Limited, on behalf of the Company.

It was moved by Mr. Robertson, seconded by Mr. Leamy:

That the Board of Directors approve of Mr. Robertson's signature to this agreement.

The meeting then adjourned.

20

A. W. Robertson,  
Chairman.

L. N. Leamy,  
Secretary.

B. G. Connolly.”

30 Will you please state if the signature A. W. Robertson is your signature, and if the other signatures are respectively those of Mr. L. N. Leamy and Dr. B. G. Connolly?

A.—Yes, that is my signature.

Q.—And are the other two signatures the signatures of Dr. Connolly and Mr. Leamy?

A.—Yes.

Q.—This minute purports to have been passed on May 3rd, 1928. Was it so passed on that date?

A.—I think so.

40 Q.—And. is the minute correct?

A.—Yes.

Q.—Was the following minute passed and adopted on December 8th, 1928, by the Board of Directors of A. W. Robertson, Limited, and is the signature “A. W. Robertson” which appears at the foot of the waiver of notice, as well as the signature “A. W. Robertson at the foot of the said minute, your signature?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, Room 1005 Keefer Building, Montreal, Quebec, on the 8th day of December, 1928, at 11.30 in the forenoon.

10

There were present: Mr. A. W. Robertson, Mr. L. N. Leamy, Dr. B. G. Connolly.

The following waiver of notice of the meeting was signed by all the directors present:

20

We, the undersigned, being all directors of the company hereby waive notice of the time, place and purpose of the meeting, and do fix 11.30 in the forenoon the 8th day of December, 1928, as the time, and room 1005 Keefer Building, Montreal, as the place, and the purpose being the transferring of certain stock certificates standing in the name of the late Hugh Quinlan to the executors of the Estate Hugh Quinlan and to issue new certificates.

And we do hereby waive all the requirements of the Statutes of Quebec and Canada as to the publication thereof.

30

Montreal, Quebec, December 8th, 1928.

A. W. Robertson,  
L. N. Leamy,  
B. G. Connolly.

Mr. Robertson acted as Chairman of the Meeting, and Mr. Leamy acted as Secretary of the meeting.

40

The minutes of the last meeting of the Board of Directors were read, approved and adopted.

It was moved by Mr. Robertson, and seconded by Mr. Leamy, that the stock standing in the name of the late Hugh Quinlan be transferred to the executors of the Estate Hugh Quinlan.

It was unanimously resolved that the following shares standing in the name of the late Hugh Quinlan be transferred to the executors of the Estate of the late Hugh — (probably the name Quinlan was omitted by error):

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Certificate No. 2, 925 shares.

Certificate No. 4, 1 share.

10 Certificate No. 9, 510 shares.

Certificate No. 13, 150 shares.

1586 total shares.

There being no further business to transact, the meeting then adjourned.

20 A. W. Robertson, Chairman,  
L. N. Leamy, Secretary,  
Approved: B. G. Connolly.'

A.—Yes, that is my signature.

Q.—Are the other two signatures respectively the signatures of Dr. B. G. Connolly and of Mr. L. N. Leamy?

A.—Yes. This is Dr. Connolly's signature, and this is Mr. Leamy's signature.

30 Was this minute passed on the date it purports to have been passed, to wit, December 8th, 1928: and is it correct?

A.—I think so.

Q.—Was the following minute passed by the Board of Directors of A. W. Robertson, Limited, on December 10th, 1928, and is the signature "A. W. Robertson" at the foot of the waiver of notice, and the signature "A. W. Robertson" at the foot of the minute, your signature?

40 "Minutes of meeting of the Board of Directors, of A. W. Robertson, Limited, held at the office of the Company, Room 1005 Keefer Building, Montreal, Quebec, on the 10th day of December, 1928, at 11.30 in the forenoon.

There were present: Mr. A. W. Robertson, Mr. L. N. Leamy, Dr. B. G. Connolly.

The following waiver of notice of the meeting was signed by all the directors present:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 We, the undersigned, being all directors of the company hereby waive notice of the time, place and purpose of the meeting and do fix 11.30 in the forenoon the 10th of December, 1928, as the time, and room 1005 Keefer Building, Montreal, as the place, and the purpose being the adopting of a resolution with respect to the interest of M. J. O'Brien, Limited, in the Welland Ship Canal (Section No. 8) contract.

And we do hereby waive all the requirements of the Statutes of Quebec and Canada as to the publication thereof.

Montreal, Quebec, December 10th, 1928.

20 A. W. Robertson,  
L. N. Leamy,  
B. G. Connolly,

Mr. Robertson acted as Chairman of the meeting, and Mr. Leamy acted as Secretary of the meeting.

The minutes of the last meeting of the Board of Directors were read, approved and adopted.

30 The President laid before the meeting some correspondence recently exchanged with M. J. O'Brien, Limited, in reference to the interest of that company in the Welland Ship Canal (Section No. 8) contract undertaken by this company in or about the month of February, 1924, which interest was a one quarter share in the profits and a corresponding liability for a one quarter share of the loss, if any, and in which correspondence it was suggested by M. J. O'Brien, Limited, that a more formal recognition be given to their share and interest in the contract which was indoubted and known to all the Board and had been frequently recognized by various  
40 payments on account.

On motion, duly seconded, it was unanimously resolved:

That, at the request of M. J. O'Brien, Limited, this company does formally admit and confirm the existence of the undivided one quarter share and interest of M. J. O'Brien, Limited, in the Welland Ship Cannal (Section No. 8) con-

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

tract obtained by this company in February, 1924, and in respect of which substantial payments have from time to time heretofore been made by this company to said M. J. O'Brien, Limited.

10 Carried unánimously.

There being no further business the meeting was then adjourned.

A. W. Robertson, Chairman,  
L. N. Leamy, Secretary,  
Approved: B. G. Connolly."

A.—That is my signature, and these are the signatures of the others.

20 Q.—Was the following minute passed and adopted by the Board of Directors of A. W. Robertson, Limited, on January 2nd, 1929, and is the signature "A. W. Robertson" which appears at the foot of the waiver of notice, and the signature "A. W. Robertson" which appears at the foot of the minutes, your signature?

30 "Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, Room 1005 Keefer Building, 1040 St. Catherine Street, West, Montreal, Quebec, on the 2nd day of January, 1929, at 10 o'clock in the forenoon.

There were present: Mr. A. W. Robertson, Dr. B. G. Connolly, Mr. L. N. Leamy.

The following waiver of notice of the meeting was signed by all the directors present:

40 We, the undersigned, being all the directors of the company do hereby waive notice of the time place and purpose of the meeting, and do fix 10 o'clock in the forenoon, January 2nd, 1929, as the time, and room 1005 Keefer Building, Montreal, as the place, and the purpose being the declaring of a dividend on the capital stock of the company and the transaction of any other business that may be brought before the meeting.

Montreal, January 2nd, 1929.

A. W. Robertson,  
L. N. Leamy,  
B. G. Connolly,

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Mr. Robertson acted as Chairman of the meeting, and Mr. Leamy acted as Secretary of the meeting.

10 The minutes of the last meeting were read, approved and adopted.

Mr. A. W. Robertson requested permission of the Board to transfer one of his shares in the capital stock of the company to Mr. J. A. O'Brien.

20 Moved by Mr. Robertson, seconded by Mr. Leamy: That the transfer of one share in the capital stock of the company from A. W. Robertson to Mr. J. A. O'Brien be and is hereby authorized.

It was then moved by Mr. Robertson, seconded by Mr. Leamy, and resolved: That a dividend of 30% be and it is hereby declared on the paid up capital stock of the company to be paid at once.

This was unanimously carried.

30 There being no further business, the meeting then adjourned.

A. W. Robertson, Chairman,  
L. N. Leamy, Secretary,  
Approved: B. G. Connolly."

A.—That is my signature, and these are the signatures of the others.

40 Q.—And, to the first part of my question do you answer in the affirmative: That this minute was passed on the date it bears, to wit, January 2nd, 1929?

A.—I think so.

Q.—Is this minute correct?

A.—Yes, so far as I know.

Q.—Was the following minute passed on February 12th, 1929, by the Board of Directors of A. W. Robertson, Limited, and is the signature "A. W. Robertson" which appears at the foot of the waiver of notice, as well as the signature "A. W. Robertson" which appears at the foot of the said minute, your signature:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

“Minutes of meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the company, 1005 Keefer Building, Montreal, on the 12th day of February, 1929.

10

There were present: Mr. A. W. Robertson, Mr. L. N. Leamy.

The following waiver of notice of the meeting was signed by all of the directors present:

20

We, the undersigned, being all directors of the company, do hereby waive notice of the time place and purpose of the meeting, and do fix the 12th day of February, 1929, as the time, and the place 1005 Keefer Building, and the purpose being the selling of all immoveable properties at Ile Perrot, Quebec, and we do hereby waive all the requirements of the Statutes of Quebec and Canada as to the publication thereof.

Montreal, Quebec, February 12th, 1929.

A. W. Robertson,  
L. N. Leamy,  
B. G. Connolly,

30

The minutes of the last meeting of the Board of Directors were read and adopted.

Mr. Robertson acted as Chairman of the meeting.

Mr. Leamy acted as Secretary of the meeting.

Moved by Mr. Robertson, seconded by Mr. Leamy:

40

That this company do sell to P. E. Brown, Registered, the following immoveable properties situated at Ile Perrot, Quebec.

#### DESCRIPTION

An emplacement situated in the Parish of Ste Jeanne de l'Isle Perrot forming part of lot known and designated under the number two hundred and forty three (243) on the offi-



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10      cial plan and book of reference of the said parish, measuring one hundred and thirty five feet, French measure, in width, by all the depth existing between the public road or Chemin du Roi to the Ottawa River, by which said emplacement is bounded in the rear and on one side by Moise St. Denis or representatives and on the other side by the representatives of Joseph Moffate with the building thereon.

20      A tract of land situated in the Parish of Ste. Jeanne de l'Isle Perrot, forming part of lot bearing No. 243 on the official plan and book of reference of the said parish, containing about a frontage of two arpents and a quarter by a depth of five hundred feet, English measure, more or less, without guarantee to precise measurements, being all the land lying between the Ottawa River which is the front boundary to fifteen feet of the maple bush which is the back boundary bounded on one side by Roger Groulx and on the other side by Fortunate Charlebois, without building, but with the reserve for Moise St. Denis of the parish of Ste. Jeanne de l'Isle Perrot, farmer, in the west line of said lot of right of way, a pied et en voiture, of 50 feet width, English measure, to go to the said river, however, the said purchaser will have the right to take from the reserve spot all the stone they want, provided they do not interfere with the right of way of said St. Denis.

40      Tract of land situated in the Parish of L'Isle Perrot forming part of lot 244 on the official plan and book of reference of the said parish, fronting the Ottawa River forming a total area of ten arpents seventy seven perches, more or less, bounded on the rear by Roger Groulx, and on the west by Moise St. Denis, without buildings.

The price of these three parcels of land is forty two hundred and fifty dollars (4250.)

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

That the President, Mr. A. W. Robertson, and the Secretary, Mr. L. N. Leamy, be and are hereby authorized to sign all deeds and documents for the conveyance of these properties.

10

This resolution was unanimously adopted.

The meeting then adjourned.

A. W. Robertson, Chairman.  
L. N. Leamy, Secretary,  
Approved: B. G. Connolly.

A.—That is my signature.

20

Q.—Are the other two signatures respectively the signatures of Mr. Leamy and Dr. Connolly?

A.—Yes.

Q.—Was this Minute passed on the date it purports to have been passed?

A.—Yes.

Q.—And, is it correct?

30

A.—So far as I know. Of course, I do not know anything about the details of the properties.

Q.—But, so far as the Minute is concerned, it was passed?

A.—Yes.

Those are what they told me were the properties.

Q.—Is it correct as far as the minute itself is concerned?

40

A.—Yes.

Q.—Was the following minute passed at a special general meeting of the shareholders of A. W. Robertson, Limited, on March 21st, 1929, and is the signature "A. W. Robertson" which appears at the foot of the said minute your signature :

A. W. ROBERTSON, LIMITED

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

SPECIAL GENERAL MEETING OF SHAREHOLDERS

10

Minutes of a Special General Meeting of the Shareholders of A. W. Robertson, Limited, held at the Head Office of the Company, 1005 Keefer Building, Montreal, on the 21st day of March, 1929, at the hour of 2.30 o'clock in the afternoon.

There were present :

20	<i>In Person :</i>	Mr. A. W. Robertson, representing	1,584 shares
		Mr. L. N. Leamy, representing.....	1 share
		Dr. B. G. Connolly, representing...	1 share
		Mr. J. Ambrose O'Brien, representing .....	1 share
		Mr. A. W. Robertson, joint executor of the Estate Hugh Quinlan, and Dr. B. G. Connolly, representing Capital Trust Corporation, joint executor of Estate Hugh Quinlan, representing .....	1,586 shares
30	<i>By proxy :</i>	The Hon. J. L. Perron, by his proxy Mr. A. W. Robertson, representing	1 share
		Mr. Justice Thibaudeau Rinfret, by his proxy Mr. A. W. Robertson, representing .....	1 share
		Total.....	3,175 shares

40

Being all the issued shares of Capital stock of the company.

The President acted as Chairman, and the Secretary as Secretary of the meeting.

The Secretary then read the notice calling the meeting, and produced a declaration proving service of the notice on all the shareholders of the company, a copy of the notice and proof of service were directed to be annexed as schedule A to these minutes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

The Chairman then declared the meeting to be regularly called and properly constituted for the transaction of business.

10 The original proxies were directed to be filed with the records of the company.

The minutes of the last meeting of shareholders were read and approved.

20 The President explained to the meeting that, as would appear from the notice calling the meeting, the object of this meeting was to ratify certain irregularities in the drafting of various minutes of meetings of the company, and that this was being done upon the advice of the Company's solicitors.

30 He then asked the Secretary to read to the meeting By-law No. 23 of the Company's by-laws, as drafted by the Board of Directors at their meeting held the 11th day of March, 1929, for the purpose of rectifying the situation which had arisen owing to the fact that although the Letters Patent of the company had originally constituted the company with a Board of five directors, the company had nevertheless from the very beginning of its organization carried on business with a Board of three directors and the original by-law referring to the constitution of the Board of Directors had stated that the Board should consist of three members.

After the Secretary had read to the meeting the said by-law No. 23, it was moved, seconded and unanimously resolved :

40 That the said by-law No. 23 as adopted by the Board of Directors at their meeting held the 11th day of March, 1929, be and it is hereby ratified and confirmed.

The President then asked the Secretary to read to the meeting By-law No. 24 which had been adopted by the Board of Directors at their meeting held the 11th day of March, 1929, for the purpose of rectifying all acts done by the Directors of the Company during the period when the administration of the company had been carried on by a Board of three instead of five directors.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

After the said by-law had been read to the meeting, seconded and unanimously resolved :

10 That the said by-law No. 24 as adopted by the Board of Directors at their meeting held the 11th day of March, 1929, be and it is hereby ratified and confirmed :

The President next asked the Secretary to read to the meeting the general borrowing by-law adopted by the Board of Directors as by-law No. 25 of the Company's by-laws.

After the said by-law had been read, it was moved, seconded and unanimously resolved :

20 That By-law No. 25 of the Company's by-laws being a general borrowing by-law, as adopted by the Board of Directors at their meeting held the 11th day of March, 1919, at the hour of 2.30 o'clock in the afternoon, be and it is hereby ratified and confirmed.

30 The President then stated to the meeting that there were certain errors in the minutes of the company referring to the issue of certain shares of the capital stock of the company, although such issue appears correctly in the stock book of the company.

In order to regularize the situation the directors had adopted a by-law, being bylaws No. 26 of the company's by-laws, setting forth the exact situation with respect to the issue of certain shares of the capital stock of the company.

After this by-law had been read to the meeting by the Secretary, it was moved, seconded and unanimously resolved :

40 That the said by-law No. 26, as adopted by the Board of Directors at their meeting held the 11th day of March, 1929, at the hour of 2.30 o'clock in the afternoon, be and it is hereby ratified and confirmed.

The President then explained to the meeting that the Board of Directors had deemed it advisable to pass a resolution at their meeting held the 11th day of March, 1919, at the hour of 2.30 o'clock in the afternoon, ratifying and con-

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10      firming by-law No. 22 of the company's by-laws, being a by-law authorizing the purchase from Quinlan & Robertson Limited of immoveable property in the 8th, 9th and 10th concessions of the Township of Huntingdon, in the County of Hastings, in the Province of Ontario and in the 3rd, 4th and 5th concessions of the said Township, the purchase from Crookston Quarries, Limited, of immoveable property situate in the 8th, 9th and 10th Concessions of the said Township, and the sale to Fuller Gravel, Limited, of immoveable property situate in the 3rd, 4th and 5th Concessions of the said Township.

20      The President stated that it would be, however, advisable for the shareholders of the company also to ratify said by-law.

It was thereupon moved, seconded and unanimously resolved :

That By-law No. 22 of the company's by-laws as adopted by the Board of Directors at their Annual Meeting held the 8th day of August, 1927, be and it is hereby ratified and confirmed.

30      The President then stated to the meeting that upon the advice of the company's solicitors the vacancies in the Board of Directors would not be filled until notice of By-law No. 23 had been published in the Quebec Official Gazette with all due legal formalities.

And there being no further business, the meeting then adjourned.

40                      A. W. Robertson, President,  
                            L. N. Leamy, Secretary.  
                            Approved : B. G. Connolly.  
    J. A. O'Brien. ”

Q.—Is the signature “ A. W. Robertson ” your signature; and are the other signatures the signatures of the other gentlemen respectively?

A.—Yes, this is my signature.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Are the other signature respectively the signatures of the parties whose names appear at the foot of the said minute?

A.—Yes.

10 Q.—Was that minute passed on the date it purports to have been passed?

A.—I think so.

Q.—Were the shareholders therein mentioned present?

A.—I think so.

Q.—Is the minute correct?

A.—I would not have signed it unless it was.

20

That minute seems in conflict with the one further over. You overlooked the other one, apparently.

Q.—I will now read to you the minute of Special General Meetings of Shareholders of A. W. Robertson, Limited, held April 8th, 1929, and I wish to ask you if you were present at the meeting of shareholders :

30

A. W. ROBERTSON, LIMITED

40

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*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

SPECIAL GENERAL MEETING OF SHAREHOLDERS

10 Minutes of a Special General Meeting of the Shareholders of A. W. Robertson, Limited, held at Head Office of the Company, 1005 Keefer Building, 1440 St. Catherine Street, West, Montreal, on the 8th day of April, 1929, at 12 o'clock noon.

There were present :

	<i>In person</i> :	Mr. A. W. Robertson, representing....	1,584 shares
		Mr. L. N. Leamy, representing.....	1 share
		Dr. B. G. Connolly, representing.....	1 share
20		Mr. J. Ambrose O'Brien, representing .....	1 share
		Mr. A. W. Robertson, joint executor of the Estate Hugh Quinlan, and Dr. B. G. Connolly, representing Capital Trust Corporation, joint executor of the Estate Hugh Quinlan, representing .....	1,586 shares
	<i>By proxy</i> :	The Hon. J. L. Perron, by his proxy Mr. A. W. Robertson, representing..	1 share
30		Mr. Justice Thibaudeau Rinfret, by his proxy Mr. A. W. Robertson, representing .....	1 share
		Total.....	3,175 shares

Being all the issued shares of the capital stock of the company.

40 The President acted as Chairman, and the Secretary as Secretary of the meeting.

All the shareholders of the company being present, the meeting was declared to be regularly constituted.

The minutes of the last meeting of shareholders were read and approved.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 The President stated that the meeting had been called for the purpose of taking into consideration and, if deemed advisable, ratifying a by-law authorizing the sale of certain properties in the Town of Campbellford, in the Province of Ontario, and asked the Secretary to read to the meeting By-law No. 27 which had been adopted by the Board for this purpose.

20 After the said by-law had been taken into consideration, it was moved, seconded and unanimously resolved that By-law No. 27 of the company's by-laws, as adopted by the Board of Directors at their meeting held the 8th of April, 1929, at the hour of 11.30 o'clock in the forenoon, authorizing the sale to Walter Hensen of certain immovable property in the Town of Campbellford, County of Northumberland, Province of Ontario, for and in consideration of the sum of \$850.00 be and it is hereby ratified and confirmed.

There being no further business, the meeting was then adjourned. ”

30 I notice this minute is signed by L. N. Leamy, Secretary, and marked as “ Approved ” by B. G. Connolly, and J. A. O'Brien, but you do not appear to have signed at the foot of the minute.

A.—I overlooked it.

Q.—Were you present at the meeting?

A.—Yes. I remember approving of the sale of the property.

Q.—Were you present at the meeting?

A.—Yes.

Q.—Was that resolution passed on the date it purports to have been passed, to wit, April 8th, 1929?

A.—Yes.

Q.—And, is the minute correct?

40 A.—I think so. Mr. Leamy would not have put it through unless it was correct. Should I sign it now?

Mr. Beaulieu :—Now that it has been noticed it was not signed, you may sign it if you wish, or you may sign it later.

Witness:—I was there, and the subject was discussed.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Tanner:—

Q.—Were you present?

A.—Yes. I remember the transaction.

10 Q.—Was the following minute passed at a Special General Meeting of the Shareholders held October 9th, 1929, and were you present at the said meeting, and is the signature “A. W. Robertson” which appears thereon your signature?

A. W. ROBERTSON, LIMITED

20 SPECIAL GENERAL MEETING OF SHAREHOLDERS.

Minutes of a Special General Meeting of Shareholders of A. W. Robertson, Limited, held at the offices of Messrs. Perron, Vallée & Perron, Room 701 Themis Building, Montreal, on the 9th of October, 1929, at the hour of 4 o'clock in the afternoon.

There were present :

30	<i>In Person :</i>	Mr. A. W. Robertson, representing..	1,584 shares
		Mr. L. N. Leamy, representing.....	1 share
		Dr. B. G. Connolly, representing....	1 share
		Mr. J. Ambrose O'Brien, representing .....	1 share
		Mr. A. W. Robertson, joint executor of the Estate Hugh Quinlan, and Dr. B. G. Connolly, representing the Capital Trust Corporation, joint executor of the Estate Hugh Quinlan, representing .....	1,586 shares
40	<i>By proxy :</i>	The Hon. J. L. Perron, by his proxy Mr. A. W. Robertson, representing	1 share
		Mr. Justice Thibaudeau Rinfret, by his proxy Mr. A. W. Robertson, representing .....	1 share
		Total.....	3,175 shares

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Being all the issued shares of the capital stock of the company.

10 The President acted as Chairman, and the Secretary acted as Secretary of the meeting.

All the shareholders of the company being present in person or by proxy, and having waived notice of the calling of the meeting, the meeting was declared to be regularly constituted for the transaction of business.

The original proxies were directed to be filed with the records of the company.

20 The minutes of the last meeting of shareholders were read and approved.

The President explained that the meeting had been called for the purpose of taking into consideration and, if deemed advisable, ratifying a resolution of the Board of Directors authorizing the voluntary winding up of the company. He then asked the Secretary to read to the meeting the resolution adopted by the directors to this effect, which resolution reads as follows :

30 ' Whereas, it is expedient, in the opinion of the directors of this company, that this company should dissolve :

40 ' Be it resolved that this company is hereby required to be wound up voluntarily pursuant to the provisions of the Winding-Up Act (R. S. Q. 1925, Chap. 225) and that Charles A. Shannon and L. N. Leamy, of the City of Montreal, be appointed liquidators for the purpose of such winding up and the remuneration of the said liquidators is hereby fixed at the lump sum of \$1,500.00.

' And be it further resolved that for the purpose of carrying out this resolution Dr. B. G. Connolly and Mr. A. W. Robertson be and they are hereby appointed inspectors, with such powers as may be conferred upon them by law.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10           ‘ Be it further resolved that the said liquidators be and they are hereby authorized and instructed to realize the assets of the company as speedily as practicable and distribute the proceeds according to law, the whole in conformity with the powers conferred upon him under the Quebec Winding Up Act.’

After same discussion it was moved by Mr. A. W. Robertson, seconded by Dr. B. G. Connolly, and unanimously resolved :

20           That the foregoing resolution of the Board of Directors, adopted at their meeting held the 9th day of October, 1929, at the hour of 3.30 o'clock in the afternoon, authorizing the voluntary winding up of the company and the appointment of Charles A. Shannon as liquidator for this purpose be and it is hereby ratified and confirmed.

There being no further business, the meeting then adjourned.

A. W. Robertson, President,  
L. N. Leamy, Secretary,  
Approved : B. G. Connolly,  
J. A. O'Brien.”

30

A.—Those are the signatures.

Q.—This bears your signature?

A.—Yes, this is my signature.

Q.—Was that resolution actually passed at a meeting of the shareholders held October 9th, 1929?

A.—Yes.

Q.—Were you present at the meeting?

A.—I was.

40           Q.—Is this minute correct?

A.—Yes, it is.

And the further examination of the witness is continued tentatively until Thursday next, November 14th, at 3 o'clock in the afternoon.

And further for the present deponent saith not.

J. H. Kenehan,  
Official Court Reporter.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

And on this twenty second day of November, in the year of our Lord one thousand nine hundred and twenty nine personally came and reappeared the said witness: Angus W. Robertson, and his examination was continued as follows:—

10

By Mr. Tanner, K.C.:—

Q.—Was Dr. B. G. Connolly present in person at the Special General Meeting of Shareholders of A. W. Robertson, Limited, held on the 9th day of October, 1929, at the hour of four o'clock in the afternoon in the office of Messrs. Perron, Vallée & Perron, 801 Themis Building, Montreal?

A.—He was at a meeting there that day with me. He was there.

20

Q.—Is it not a fact that Dr. Connolly then filed the following proxy, which apparently was signed by the Executors of the Estate Hugh Quinlan, Capital Trust Company, Limited, per L. E. Parent, Assistant Manager, John J. Lyons, President :

“ A. W. ROBERTSON, LIMITED

30

CAPITAL TRUST CORPORATION, a body politic and corporate, having its Head Office in the City of Ottawa, Ontario, acting herein in its capacity as Joint Executor of the Estate Hugh Quinlan, does hereby appoint Dr. B. G. Connolly to be its proxy to vote and act for it and on its behalf at the Special General Meeting of the Shareholders of the Company which is to be held on the 9th day of October, 1929, at the hour of four o'clock in the afternoon, and to waive notice of the calling of such meeting and in particular to consent to the adoption of such measures as may be thought advisable to put the Company into voluntary liquidation under the Provisions of the Quebec Winding-Up Act and in general to consent to the transaction of any business whatsoever which may be brought before the meeting and also to act for it at every adjournment thereof and at every poll which may respectively take place in consequence thereof.

40

Dated at Ottawa this 7th day of October, 1929. ”

A.—Dr. Connolly attended this meeting with me and O'Brien.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Beaulieu :—

Q.—What meeting is that?

10 A.—The meeting of October 9th. Miss Monk held the meeting. I do not know the details of it, but I know the meeting was held.

Q.—And, Dr. Connolly was there?

A.—Yes.

By Mr. Tanner, continuing :—

Q.—But, I wish to know if, as a matter of fact, Dr. Connolly voted as the proxy of the Capital Trust Company in virtue of the proxy which I have just read to you?

20 A.—I do not know that. He was at the meeting.

Q.—No one was there to represent to the Capital Trust Corporation?

A.—Could he not act in both capacities?

Counsel:—That is what I ask you.

A.—I would have to ask Miss Monk.

30 Q.—I see as a part of the minute of A. W. Robertson, Limited, the proxy which I have just read to you. You see it yourself also, forming part of the minute book of A. W. Robertson, Limited?

A.—Yes.

Q.—Do you know the signature of Mr. Parent, the Assistant Manager, and if so will you please say if this is his signature?

A.—It looks like it.

Q.—Do you know the signature of John J. Lyons?

A.—That looks like his signature.

40 Q.—Will you please look at the other two proxies — the proxy dated October 7th, 1929, given by Mr. J. L. Perron to yourself, A. W. Robertson; and another proxy dated October 7th, 1929, given by Mr. Thibaudeau Rinfret to yourself, A. W. Robertson; and will you please state if those proxies, as far as their contents are concerned, are identical in terms with the one I have just read to you signed by the Capital Trust Corporation as executors of the Estate, or do you see any difference between those proxies?

A.—They look to me to be the same. Of course Miss Monk drafted them all.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—As far as you can see they are identical?

A.—Yes.

Q.—These proxies are respectively signed by Mr. Justice Thibaudeau Rinfret and by Mr. J. L. Perron?

10 A.—Yes. This is Mr. Perron's signature, and this is Mr. Justice Rinfret's signature.

Q.—These two proxies are made in your favor. Did you cast your vote in virtue of those proxies in favor of the voluntary liquidation of A. W. Robertson, Limited?

A.—I assume I did, if it is there.

Q.—I want to know if you did or not?

A.—Miss Monk held the meeting, and I approved of everything that was done there.

20 Q.—In reference to the winding up of A. W. Robertson Limited has anything been done since October 9th, 1929, in furtherance of the liquidation of this company?

A.—There has been no division of assets, or anything of the kind.

Q.—Has there been any sale of assets?

A.—No, not since October 9th. There are assets advertised for sale, I believe, but there has been none sold.

Q.—Advertised in what paper?

30 A.—The advertisement I have in mind was not for A. W. Robertson, Limited. The advertisement was for the sale of some stock of the Quinlan Estate. There has been nothing sold or advertised since October 9th unless the Capital Trust have done it recently. They have been trying to sell the dredging outfit.

Q.—Will you please state, if, as a matter of fact, the following minute was passed and adopted at a meeting of the Board of Directors of A. W. Robertson, Limited, held in the office of the Company, 1005 Keefer Building, Montreal, on March 11th, 1929; which minute reads as follows :—

40 “ Minutes of a meeting of the Board of Directors of A. W. Robertson, Limited, held at the office of the Company, 1005 Keefer Building, Montreal, on the 11th day of March, 1929.

There were present : Messrs. A. W. Robertson, L. N. Leamy, B. G. Connolly; being all the directors of the company.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

All the directors of the company being present, the meeting was declared to be regularly constituted in accordance with the provisions of the by-laws.

10 The President acted as chairman, and the secretary as secretary of the meeting.

The minutes of the last meeting of the Board of Directors were read and approved.

The President stated to the meeting that the minute book of the company had been submitted for examination to Messrs. Perron, Vallée & Perron, who had reported that there were certain irregularities in the minutes.

20

With reference to the number of the Board of Directors of the Company, it appeared that although the company, as originally constituted by its letters patent, was given a Board of five Directors, nevertheless the general by-laws of the company had created a Board of three Directors without, however, formally, reducing the number of Directors from five to three and filing a copy of the by-law effecting such reduction at Quebec in conformity with the Statutes.

30

After some discussion the meeting decided that it would be advisable for the company to continue its affairs with a Board of five directors, and to this end the following By-law was adopted to amend by-law No. 7 of the Company's by-laws :

*By-law No. 23*

40 Be it enacted as By-law No. 23 of the Company's by-laws of follows :

Paragraph " A " of by-law No. 7 of the company's by-laws is amended to read as follows :—

(a) The affairs of the company shall be managed by a Board of five Directors of whom a majority shall form a quorum. The qualification of a director of the company shall be the holding of at least one share in the capital stock of the Company.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

It was further moved, seconded, and unanimously resolved: That the following be enacted as by-law No. 24 of the company's by-laws:

10

*By-law No. 24.*

Whereas it appears that the Board of Directors of this Company having been originally constituted by the Letters Patent of the Company with five members has been reduced to three members by a by-law of the company, without, however, complying with the necessary formalities required by the Companies' Act for the reduction of the number of directors of the company, and

20

Whereas it further appears that at various meetings of the Board of Directors a quorum of directors only has been present and the necessary waiver of notice of the absent director has not been filed with the minutes of the company; and

30

Whereas it is advisable that in the best interest of the company to pass a by-law ratifying all the acts of the Board of Directors at such meetings of the directors of the company as may not have conformed to the requirements of the law relating to the holding of directors' meetings :

Be it and it is hereby enacted as a by-law of the company, as follows :

40

(1) All acts, contracts, by-laws, proceedings, elections, appointments, and payments of money by the Board of Directors of the Company throughout the period when this company was managed by a Board of three Directors instead of by a Board of five Directors, are hereby approved, ratified and confirmed, and declared to be legal and binding on the company.

(2) All acts, contracts, by-laws, proceedings, elections, appointments and payments of money made at any meeting of directors at which two only of the three directors of the company were present during the period when this company was managed by a Board of three Directors

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 instead of by a Board of five Directors, are hereby approved, ratified and confirmed, and declared to be legal and binding on the company, and this notwithstanding that the minute book may contain no reference to the fact that notice of the calling of such directors' meeting was legally given.....

---

The President next suggested to the meeting that it would be advisable to pass a borrowing by-law conforming exactly to the text of the Quebec Companies' Act.

20 It was thereupon moved, seconded and unanimously resolved that the following be enacted as by-law No. 25 of the Company's by-laws :

*By-law No. 25*

Borrowing by-law :

30 Whereas the Companies' Act empowers the directors of A. W. Robertson, Limited, to borrow money for the purposes of the Company when authorized by by-law duly sanctioned by the shareholders, and

Whereas it is necessary and expedient for the purposes of the company to borrow money on the credit of the company from time to time, and

Whereas neither the charter of the company nor the Statute mentioned above prescribes any limit to the amount which the company may borrow :

40 Therefore, be it enacted as a by-law of the Company as follows :

That the Directors of the Company be and they are hereby authorized :

(a) To borrow money upon the credit of the company ;

(b) To issue bonds, debentures or other securities of the company and pledge or sell the same for such sums and at such prices as may be deemed expedient ;

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 (c) Notwithstanding the provisions of the Civil Code, to hypothecate, mortgage or pledge the moveable or immoveable property present or future, of the company, to secure any such bonds, debentures or other securities, or give part only of such guarantee for such purposes; and constitute the hypothec, mortgage or pledge above mentioned by Trust Deed, in accordance with sections 11 and 12 of the Special Corporate Powers Act (R.S.Q.), 1925, Chap. 227) or in any other manner;

20 (d) To hypothecate or mortgage the immoveable property of the company, or pledge or otherwise affect, the moveable property, or give all such guarantees, to secure the payment of loans made otherwise than by the issue of debentures, as well as the payment or performance of other debt, contract or obligation of the company.

The limitations and restrictions contained in the foregoing paragraphs shall not apply to the borrowing of money by the company on bills of exchange or promissory notes, made, drawn, accepted or endorsed by or on behalf of the Company.

30 (e) The directors may from time to time authorize any director or directors, officer or officers, employee of the company or other person or persons, whether connected with the company or not, to make arrangements with reference to the money borrowed or to be borrowed as aforesaid, and as to the terms and conditions of the loan thereof, and as to the securities to be given therefor, with power to vary or modify such arrangements, terms and conditions and to give such additional securities for any moneys borrowed or remaining due by the company as the directors of the company may authorize, and generally to manage, transact and  
40 settle the borrowing of money by the company.

(f) That directors may from time to time authorize any director or directors, officer or officers, employee of the company or other person or persons, whether connected with the company or not, to sign, execute and give on behalf of the company all documents, agreements and promises necessary or desirable for the purposes aforesaid, and to draw,

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10      make, accept, endorse, execute and issue cheques, promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments and the same and all renewals thereof or substitutions therefor so signed shall be binding upon the company.

And as part of this authority to apply from time to time to any chartered bank or other lender for advances of money by the discount of bills of exchange or promissory notes as aforesaid or upon the credit of the company and to give securities therefor.

20      The powers hereby conferred shall be deemed to be in supplement of and not in substitution for any powers to borrow money for the purposes of the company, possessed by its directors or officers independently of a borrowing by-law....

30      The question of the issue of the shares of the capital stock of the company was then brought up and the President ed correctly the way in which the various shares of the capital stock had been issued, there were, however, certain discrepancies in the minutes of the company's meetings referring to such issue and it would therefore be in order to regularize this situation.

After some discussion the following was enacted as by-law No. 26 of the Company's by-laws:

*By-law No. 26*

40      Whereas by by-law No. 16 of the Company's by-laws, the company was authorized to issue and allot to Quinlan & Robertson, Limited, or their nominees, in final payment of the purchase price of certain properties mentioned in the said by-law, seven hundred and fifty (750) fully paid up shares of One Hundred Dollars (\$100.) each of the capital stock of the company, and

Whereas the provisions of the said by-law were fulfilled by the company issuing to Mr. A. W. Robertson three hundred and seventy five shares which shares form part of the total number of nine hundred and twenty five shares issued

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 to him by the company by certificate No. 1 of the company's stock certificates, and by the company issuing to Mr. Hugh Quinlan three hundred and seventy five shares, which shares from part of the total number of nine hundred and twenty five shares issued to him by the company by certificate No. 2 of the company's stock certificates, the said A. W. Robertson and Hugh Quinlan being in fact the nominees of the company Quinlan & Robertson, Limited, and

Whereas by error it is stated on page 33 of the Minute Book of the Company that the said 750 fully paid up shares had been issued to Quinlan & Robertson, Limited, whereas the said shares had in fact been issued to the nominees of Quinlan & Robertson, Limited,

20 Therefore be it and it is hereby enacted as a by-law of the company as follows:

30 It is hereby declared that the issue of 375 shares of the capital stock of the company in favor of A. W. Robertson and the issue of 375 shares of the capital stock of the company in favor of Hugh Quinlan, which shares are represented by certificates Nos. 1 and 2 respectively of the shares certificate of this Company, dated the 23rd of December, 1919, were lawfully issued to the said A. W. Robertson and Hugh Quinlan, as nominees of Quinlan & Robertson, Limited, the whole upon instructions of Quinlan & Robertson, Limited.

40 The President then pointed out to the meeting that by-law No. 22 of the company's by-laws, authorizing the purchase from Quinlan & Robertson, Limited, of immoveable property situated in the 8th, 9th and 10th Concessions of the Township of Huntingdon, County of Hastings, in the Province of Ontario, as well as certain other property situate in the 3rd, 4th and 5th Concessions of the said Township, the purchase from Crookston Quarries, Limited, of all lands and premises in the 8th, 9th and 10th Concessions of the said Township, and the sale to Fuller Gravel, Limited, of all lands and immoveable property in the said 3rd, 4th and 5th Concessions had been adopted by the Directors at the time when the vacancy created by the death of the late Mr. Quinlan had not been filled, the Board of Directors therefore being composed of only two Directors:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

It was therefore moved, seconded and unanimously resolved:

10 That the said by-law No. 22 of the Company's by-laws be and it is hereby ratified and confirmed.

20 The President then suggested to the meeting that although in point of fact the Company had never ceased legally to have a Board of five Directors, nevertheless it would perhaps be advisable not to fill up the vacancies existing on the Board until a copy of by-law No. 23, amending the original by-law No. 7 which had declared the company to be managed by a Board of three Directors, should have been published in Quebec Official Gazette, in the manner set forth for the publication and approval of all by-laws altering the number of the Board of Directors of a company.

The Secretary was thereupon instructed to call a Special General Meeting of the Shareholders of the Company to be held at the Head Office of the Company on the 21st day of March, 1929, at the hour of 2.30 o'clock in the afternoon.

30 There being no further business, the meeting then adjourned.

A. W. Robertson, President.  
L. N. Leamy, Secretary.  
Approved: B. G. Connolly."

A.—I remember that meeting was held.

Q.—And, this minute was passed and adopted, as I have read it to you?

40 A.—Yes.

Q.—Is the signature "A. W. Robertson" at the foot of that minute your signature?

A.—That is my signature.

Q.—And, is the signature "L. N. Leamy" the signature of Mr. Leamy?

A.—Yes.

Q.—And, is the signature "B. G. Connolly, the signature of Dr. B. G. Connolly?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Will you please state if the following minute was passed and adopted by A. W. Robertson, Limited, on April 8th, 1929:

10                    “A. W. Robertson, Limited  
                         Meeting of Directors.

Minutes of a meeting of the Board of Directors of A. W. Robertson, Limited, held at the Head Office of the Company, Room 1005 Keefer Building, 1440 St. Catherine Street, West, Montreal, on the 8th day of April, 1929, at the hour of 11.30 o'clock in the forenoon.

20                    There were present: Mr. A. W. Robertson, Mr. L. N. Leamy, Dr. B. G. Connolly, being all the directors of the company.

The President acted as chairman, and the Secretary as Secretary of the meeting.

All directors of the company being present, the meeting was declared to be regularly constituted.

30                    The minutes of the last meeting of the Board of Directors were read and approved.

The President submitted to the meeting an indenture which had been prepared for the sale by the Company to Walter Hanson of certain land in the Town of Campbellford.

After some consideration of the terms of this agreement, the following by-law was adopted:

40                    *By-law No. 27*

Be it and it is hereby enacted as a by-law of the company as follows :

That the company do sell to Walter Henson, of the Town of Campbellford, Province of Ontario, the following immoveable property, namely: all and singular those certain parcels or tracts of land and premises situate lying and being in

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 the Town of Campbellford, in the County of Northumberland being composed of lots Nos. 17 and 18 in block 17 on the south side of Alma Street in the said Town of Campbellford, save and except thereout and therefrom those portions of said lots heretofore sold and conveyed to the Midland Railway of Canada by deed dated the 31st day of March, A.D. 1902, and registered on the 5th day of May, 1902, as No. 1907, and also lots Nos. 19, 20, 21, 22, 23 and 24 on the southerly side of Alma Street, in block 17, and lots Nos. 25, 26, 27, 28, 29 and 30 on the northerly side of Wallace Street in block 17, according to a survey and plan of the village (now Town) of Campbellford, made by C. F. Caddy, P.L.S. and registered A. D. 1885.

20 That the price of sale shall be the sum of \$850.00 payable in cash on the execution of the Deed of Sale of the said property, and

30 That A. W. Robertson, the President, and L. N. Leamy, the Secretary of the Company be and they are hereby authorized for and on behalf of the said Company to sign and execute a deed of sale for the said property, consenting therein to such terms and conditions as may be thought proper, and to execute all other instruments necessary for the purpose of putting into effect the terms and conditions of this by-law, and that the draft deed of the above property now submitted to this meeting be and the same is hereby approved.

The question of the date of the holding of the Annual Meeting was then brought up, and it was determined to hold the meeting on the 18th day of April, 1929, at the hour of 11 o'clock in the forenoon.

40 The Secretary was instructed to give notice immediately for the said annual meeting.

There being no further business, the meeting was then adjourned.

A. W. Robertson, President,  
L. N. Leamy, Secretary,

Approved: B. G. Connolly".



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—Yes, that meeting was held, and these are the signatures.

Q.—And, the minute as read was passed and adopted?

A.—Yes.

Q.—The signature “A. W. Robertson” is your signature?

10 A.—Yes.

Q.—And the signatures “L. N. Leamy” and “B. G. Connolly” are the signatures of those gentlemen?

A.—Yes.

Q.—Will you look at the minute book of A. W. Robertson, Limited, and will you state if it is not a fact that it appears from the minutes of a meeting held on December 15th, 1927, that at that Meeting Dr. Connolly was elected a director of the company, and also Vice-President of the company, succeeding the late Mr. Hugh Quinlan?

20 A.—Yes.

Q.—And, from then on, Dr. Connolly acted as a director of the company?

A.—Yes.

Q.—Will you please take communication of the minutes of a meeting of the Board of Directors of A. W. Robertson, Limited, held January 2nd, 1929, and will you state if it does not appear from the said minute that at the meeting held on that day a transfer of one share of the capital stock of the Company was made from A. W. Robertson to J. A. O’ Brien?

30 A.—That is my signature, and the meeting was held.

Q.—And, the transfer appears to have been accepted from yourself?

A.—Yes. I agreed to transfer the share.

Q.—Was it transferred as a matter of fact?

A.—I assume it was. I do not know. That would be left to Mr. Leamy.

40 Q.—The entry appears at page 7 of the stock book of A. W. Robertson, Limited: “Date; 1928, December 10 — to Executors Estate Hugh Quinlan — certificate No. 15 — transfer No. 9 — shares, 1586”. Is it not a fact that the Estate is the holder of a larger number of shares than 1586?

Witness:—In what?

Counsel:—In A. W. Robertson, Limited.

Witness:—How many shares are issued altogether?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Counsel:—I note you have admitted in your Pleading that the Estate, as a matter of fact, held 1587½ shares, and that 1½ shares were held in the name of nominees.

10 A.—Whatever the shares held were, they are there. The certificates are there, and there cannot be any question about it.

Q.—But, I want to clear up now the question of the nominees.

Witness:—You mean who were the nominees?

Counsel:—It appears in the book that 1586 shares are registered in the name of the Executors of the Estate. I understand besides that the Estate owns 1½ shares, over and above that amount?

20

A.—Yes.

Q.—In the Particulars, paragraph 3, you state that 1½ shares of the stock of A. W. Robertson, Limited, were in the name of Hon. Thibaudeau Rinfret and of L. N. Leamy. Is that correct?

A.—I only know the dividends were always split fifty fifty.

Q.—But, the dividends are the accessories of the shares. I want to find out in whose name the 1½ shares stand — that is, the 1½ shares owned by the Estate?

30 A.—But if the Estate is a fifty fifty owner of the whole proposition, whether the shares stand in the name of Thibaudeau Rinfret or J. L. Perron makes no difference. We admit it is a fifty fifty proposition.

Q.—Nevertheless, I want to establish the fact.

40 A.—Would not that arise in this way: the nominees of Quinlan's shares would have those odd shares, but so long as the dividends were given to the Quinlan Estate and to me on a fifty fifty basis — we had to have the five shares, and those 1586 shares likely stood in Quinlan's name only: the other shares stood in the names of the nominees. After Mr. Quinlan's death he could not transfer those shares to anyone, and the certificates were probably in the possession of somebody else.

Q.—But, I want to establish where they are, as a matter of fact. In your Particulars you say that the Honorable Thibaudeau Rinfret and L. N. Leamy owned 1½ shares, but I find nothing of the kind in the stock book, so I would like to clear up the matter. I note, however, that on February 13th, 1920, Mr. Hugh Quinlan transferred one share to Mr. T. Rinfret.

A.—That is what that says.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 Q.—So, that clears up one share, but we are left with a half share unaccounted for. Will you please look at page 7, which contains the account of Hugh Quinlan and his Estate in respect to the number of shares formerly held by him and now held by his Estate, and will you tell me if it is not a fact that the name of L. N. Leamy does not appear there?

A.—No, it does not appear.

Q.—Will you please examine the same page of the stock book, to wit, page 7; and will you please state if it is not a fact that the following appears in lead pencil on the page: “1586 shares, 1 Rinfret,  $\frac{1}{2}$  Perron: total 1587 $\frac{1}{2}$ ”?

A.—Yes, I see that there. These are not my figures.

Q.—Is this your handwriting?

A.—No, sir.

20 Q.—Whose handwriting is it?

A.—I do not know. There is none of that in my handwriting.

Q.—Is it in Mr. Quinlan’s handwriting?

A.—No.

Q.—Is it in Mr. Leamy’s handwriting?

A.—I do not think so.

Q.—Can you say whose handwriting it is?

A.—No.

Q.—Was this entry made under your instructions?

A.—No.

30 Q.—As a matter of fact, who now holds the half share which belongs to the Estate?

A.—I do not know. I only know that in the declaration of dividends or division of money it is a fifty fifty proposition.

Q.—I understand that, but I also understand that very shortly the assets may be divided, and as a result of liquidation the division of the assets will have to be turned over to the holders of the shares?

A.—On a fifty fifty basis.

40 Q.—I would like to find out who owns the other half share on behalf of the Estate.

Mr. Beaulieu:—He would not be the owner anyway. He is only a nominee.

Witness:—I would have to enquire from Mr. Leamy, or Dr. Connolly, or the Trust Company.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Tanner, Continuing,

10 Q.—At all events, there is no doubt from your statement that the Estate is entitled to at least 1587½ shares either standing in the name of the Executors of Hugh Quinlan or in the name of other nominees?

A.—Whatever shares I have, they have an equal amount: whether it is 1587, or 1587½. That question came up with the Trust Company. Neither Mr. Rinfret or Mr. Perron ever got any dividends out of this Company.

20 Q.—We have noticed in the stock book a transfer from Hugh Quinlan of one share, on February 13th, 1920, to Mr. Rinfret, and, also on the same date, February 13th, 1920, you transferred a share to the Hon. J. L. Perron; the whole as appears on page 6?

A.—Yes. It would be the auditors and the bookkeeper who would divide the dividends.

Q.—But, this appears from the book?

A.—Yes, that is what is there.

Q.—Who could tell us who now holds this half share on behalf of the Estate?

30 A.—I am not sure as to that. I very clearly remember the Trust Company brought the matter up one day in Mr. Parent's office, and he said: "You get fifty per cent of the dividends, and everybody knows you own fifty per cent of the stock".

Q.—But, that does not answer the question as to who could throw light on where this half share is?

A.—I do not think there is any half share certificate out. I think Mr. Rinfret had his certificate, and Mr. Leamy had his certificate, and Mr. Perron, and myself.

By Mr. Beaulieu:—

40 Q.—And, the half share could be taken anywhere out of the three?

A.—Yes.

By Mr. Tanner, Continuing,

Q.—Is it not a fact that it appears in the minutes of the meeting of Board of Directors of A. W. Robertson, Limited, held February 8th, 1926, that a dividend of 10% was declared on the paid up capital stock of the company, to be paid when the money was available?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 Q.—And, is it not a fact that the sum payable to Mr. Quinlan as a result of the declaration of the said dividend was \$15,860, and a similar amount to yourself, and \$10.00 to Mr. L. N. Leamy, and \$10.00 to Mr. J. L. Perron, and \$10.00 to Mr. T. Rinfret: as the whole more fully appears on the page following page 104 of the stock book, which page is not numbered, and which page also bears as a heading: “Dividends Declared”?

A.—That appears there, but what is the point?

Q.—I want to establish the amount which was payable to the different shareholders as the result of the resolution which was passed on February 8th, 1926, and I see these amounts on that page.

A.—But I do not know who put them there. I do not know anything about that.

20 Q.—Is it not a fact that the amount payable to the different shareholders, being 10% on the respective shares held by them, equals the amounts I have just mentioned, to wit: amount payable to Mr. Hugh Quinlan, \$15860; amount payable to yourself, \$15,860?

A.—Ten times these figures equal that, but I do not admit that anybody but Mr. Quinlan or I ever got a dividend out of that company.

30 Q.—That may be so, but I just want to establish the amount resulting from the minute which was passed on February 8th, 1926?

A.—These are in Mr. Leamy’s handwriting. I had nothing to do with them, and, as a matter of fact, never saw them until now. They may be perfectly correct and all right.

Q.—I am interested in the total amount of dividend paid on that date.

A.—I do not know anything about it except what appears there.

40 Q.—Dividend paid, or that became payable, as a result of that declaration. Is it not a fact that the amount which was payable to you and to Mr. Quinlan would total twice the sum of \$15,860?

A.—We would each get that amount. That is what it would look like. I know nobody else ever got dividends out of the company, to my knowledge.

Q.—I am interested in establishing the total amounts of dividends declared by the company.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—The auditor and the bookkeeper are the only ones who could follow them through the books, and know what was paid and how it was paid. They would have our vouchers for it. I am sure Mr. Rinfret will not acknowledge he ever got \$10.00 or Mr. Perron either.

10 Q.—I am not interested in who got the dividend: I am only interested in establishing the total amount of dividend declared.

A.—I do not think I got mine until long after.

Q.—Is it not a fact that at a meeting of the Board of Directors of A. W. Robertson, Limited, held July 23rd, 1926, a dividend of 10% was declared on the paid-up capital stock, which dividend was made payable at once?

A.—Yes, I remember that. That was when Mr. Quinlan's account was overdrawn, or something.

20

Mr. Tanner:—I object to the last part of the answer of the witness, and under reserve of my objection I ask the following question:

By Mr. Tanner, Continuing,

Q.—Do you swear positively that on that date the account of Mr. Quinlan was overdrawn? His personal account?

30

A.—That is my recollection.

Q.—Do you swear that positively?

A.—No, but I can ask Mr. Leamy, and find out.

Q.—Do you swear the dividend was declared because Mr. Quinlan's account was overdrawn?

A.—Yes.

Q.—Was your account overdrawn?

A.—No.

Q.—Did you leave your money there?

A.—Yes.

40

Q.—And, what did Mr. Quinlan do?

A.—He was ill, and his house was getting money on his instructions.

Q.—Do you mean to say that as a director you declared a dividend when there were no profits out of which to declare a dividend?

A.—There were lots of profits there. Mr. Quinlan and I worked in perfect harmony with respect to all our business.

Q.—Then, why make this remark? Your remark seems to imply you declared a dividend when there were no profits, in order to cover the account of Mr. Quinlan which was overdrawn?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—That thought was farthest from my mind. As a matter of fact, we could have declared any amount of dividend right along, but we did not do it.

Q.—Why could you have declared it?

10 A.—Because there were profits in the company all the time. We did not declare dividends and absorb all the profits.

Q.—So, to clear up this matter, you say that irrespective of the question as to whether Mr. Quinlan's account was overdrawn or not there were sufficient profits at the time to justify the Board of Directors in declaring a dividend of 10%?

A.—Much larger. I thought you were raising the question as to why it was declared payable at once.

20 Q.—Will you please state if at the meeting of the Board of Directors of A. W. Robertson, Limited, held October 14th, 1926, a dividend of 5% was declared on the paid up capital stock of the company, made payable at once?

A.—Yes, that is correct.

Q.—And, in consequence, the dividend payable to Mr. Quinlan amounted to \$7930.00, and the dividend payable to yourself amounted to \$7930.00?

A.—This does not purport to be anything more, as I interpret it, than the fact that if you multiply these figures out it will show this result. I do not know whether I got the money then or not.

30 Q.—But, the issue is not whether you got the money or not. The point is the dividend was declared, and I want to establish the figure. It is only a matter of arithmetic, of course, but I am seeking the result.

A.—Yes, I understand.

Q.—Is it not a fact that at the meeting of the Board of Directors of A. W. Robertson, Limited, held January 24th, 1927, a dividend of 10% was declared on the paid up capital stock of the company, declared to be payable: "As soon as finances permit"?

40 A.—Yes.

Q.—Were there profits to justify the declaration of that dividend at that time?

A.—I have every reason to believe so, yes. It would be necessary for me to have the books to be sure, but I am quite confident there were lots of profits there.

Q.—To justify the declaration of the dividend?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Is it not a fact that at a meeting of the Board of Directors of A. W. Robertson, Limited, held May 18th, 1927, a dividend of 15% was declared on the paid up capital stock of the company, and made payable at once?

10 A.—Yes, that is right.

Q.—Is it not a fact that it appears in the stock book of A. W. Robertson, Limited, at page 106, that on May 18th the total amount of dividend declared, payable to Mr. Hugh Quinlan, was \$23,812.50, which amount was payable on 1587½ shares of the Company, and that the same amount, on the same number of shares, was also declared payable to you?

A.—That is what this shows?

20 Previous to that he had treated the matter differently, but in every case Hugh Quinlan and A. W. Robertson got the same amount of dividends.

By Mr. Beaulieu:—

Q.—And, nobody else got any dividends?

A.—Never that I knew of. I do not know why it should be put down that anybody else got a dividend. I never saw it until now.

30 Mr. Beaulieu:—It was a matter of bookkeeping.

Witness:—If that is the situation according to the books, it would be wrong, because they did not give Mr. Perron a dividend, or they did not give Mr. Rinfret a dividend.

Mr. Beaulieu:—The book only meant a dividend declared, not paid.

By Mr. Tanner, Continuing,

40 Q.—I am only interested in the total amount of dividend declared.

A.—The auditor raised that question about why the dividends were divided equally and the shares were not equal. I never paid any attention to the books.

Q.—But, the dividends were paid according to the ownership of the shares?

A.—I never paid any attention to the books. I knew the auditor and the bookkeeper would divide it rightly.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

We refrained from declaring dividends as long as we could.

Q.—Why?

10 A.—Because Mr. Quinlan had an obsession that some day the taxes would be reduced and we would not have to pay so much tax. I had no desire to enrich the Government either, and we had a perfect agreement in regard to the declaration of dividends.

Q.—So, there must have been some large profits?

A.—Of course they accumulated for years, and we had to dispose of them, and pay taxes finally. I think there are two dividends of 30% each somewhere there.

20 Q.—Is it not a fact that at the meeting of the Board of Directors of A. W. Robertson, Limited, held September 17th, 1928, a dividend of 30% was declared on the paid up capital stock of the company, payable at once?

A.—Yes, that is correct.

Q.—And, as the Estate Hugh Quinlan was equitable owners of 1587½ shares the sum of \$47,625.00 was declared payable to the Estate, and a similar sum declared payable to you?

A.—Yes. That was paid on the following January 2nd, not on that date. If I said otherwise my tax bill would be wrong.

Q.—I think you are mistaken in that, Mr. Robertson, because there is another payment of 30% on January 2nd, 1929. The one I am speaking of now is September 17th, 1928.

30 A.—I beg your pardon. I thought this other dividend you mentioned was declared in 1928, and I wondered if we declared two such big dividends and paid such big taxes in the one year. One is 1927 and the other is 1928. That would be all right. This was payable on the income tax return in 1927, and this in 1928. This would be in 1929, as we got it on January 2nd.

40 Q.—I am only interested in establishing the dividends, and I have just established from the minutes that a dividend of 30% was declared on September 17th, 1928. Is it not a fact that another dividend of 30% was declared on January 2nd, 1929, as appears by the minute of a meeting of the Board of Directors of A. W. Robertson, Limited, held on that date, in which minute it appears: “Resolved that a dividend of 30% be and it is hereby declared on the paid up capital stock of the company, to be paid at once”?

A.—Yes, that is correct.

Q.—Therefore, it necessarily follows there were two dividends of 30% declared, to wit: one of 30% on September 17th, 1928, and another of 30% on January 2nd, 1929?

A.—Yes.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Were there any dividends declared payable after January 2nd, 1929?

A.—No, not that I know of.

10 Q.—Were there profits out of which further dividends could have been declared?

A.—The assets were all there. I would have to get the auditors to go into that. I suppose dividends could have been declared, but I do not know. Anyway, we have not declared any.

Q.—Has A. W. Robertson, Limited, declared other dividends apart from those I have just mentioned to you?

A.—No.

How do you mean, declared other dividends?

20 By Mr. Beaulieu:—

Q.—The dividends which Mr. Tanner mentioned to you are the dividends which have been declared?

A.—How could we do it if they were not recorded?

By Mr. Tanner, Continuing,

30 Q.—I just want to establish the fact that I have drawn your attention to all those we could find, and I want to know if there are any others?

A.—There could not be any money taken out of the concern without the books showing it.

Q.—I do not question that for the moment. I just want to establish the fact if there are others or not. Your answer is the books are there, and according to the books those were all that were declared?

A.—All I know anything about, and I would know if they were declared.

40 Q.—Will you please file with your deposition the last statement prepared by A. W. Robertson, Limited, and submitted to its shareholders, and particularly to yourself in your quality as an executor of the Estate and in your quality as holding shares in the said Company for the account and benefit of the Estate of the late Hugh Quinlan?

Mr. Beaulieu:—I object to the question, because the witness is not bound to prepare any statement.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 Mr. Tanner:—That is not what I ask. I want Mr. Robertson to file the statement which was presented to him by the Company as a shareholder of the Company holding shares in his quality as executor of the Estate of the late Hugh Quinlan for the account and benefit of the Estate.

Mr. Beaulieu:—I object.

Mr. Tanner:—What is the ground of the objection?

Mr. Beaulieu:—I have just stated one ground. Another is that this is a fact posterior to the Action.

By Mr. Tanner, Continuing,

20 Q.—Will you please file the statement prepared by the Company and submitted to its shareholders and to yourself in your quality of shareholder of the said Company as Executor of the Estate of the late Hugh Quinlan for the year 1927?

Mr. Beaulieu:—Same objection: for the first reason.

Mr. Tanner:—What is the ground of the objection?

30 Mr. Beaulieu:—The same reason as above given.

Mr. Tanner:—Counsel for Plaintiffs states the objection made by Mr. Beaulieu is not an objection in law, as it does not contain any motive or any justification or ground for being made, and if the ground invoked in support of the last objection is the same as the former ground, it does not apply inasmuch as the Action was instituted in 1928 and between the date of the death of Mr. Quinlan and the date of the Institution of the Action a statement was submitted by the Company to Mr. Robertson and  
40 to other shareholders.

By Mr. Tanner, Continuing,

Q.—So you refuse, on the advice of your Counsel Mr. Beaulieu, as I understand it, to file with your deposition a statement which was handed to you by the Company for the year 1927 in your quality as Executor of the Estate and as shareholder in the said Company for and on behalf of the Estate?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Mr. Beaulieu:—I object to the form of the question, inasmuch as the witness has not refused.

By Mr. Tanner, Continuing,

10

Q.—Do you refuse, or not?

Mr. Beaulieu (to the witness) Do not answer, Mr. Robertson.

By Mr. Tanner, Continuing,

Q.—Do you refuse to file a statement as requested?

20

Mr. Beaulieu:—Do not answer, Mr. Robertson. You are not here to decide the question. There is an objection to the question, and the Court will decide it. If the Judge says the objection is not founded, then you will file the statement, but in the meantime you are not to decide the objection.

Mr. Tanner:—In view of the objection of Mr. Beaulieu the matter will be suspended for the time being, until such time as a decision can be rendered by the Court.

30

And the further examination of the witness is continued until Tuesday, November 26th, at 3 o'clock in the afternoon.

And further for the present deponent saith not.

J. Kenehan,  
Official Court Reporter.

40

And on this twenty sixth day of November, in the year of Our Lord one thousand nine hundred and twenty nine personally came and appeared the said witness Angus W. Robertson and his examination was continued as follows:—

By Mr. Tanner, K.C.,

Q.—I have before me the stock book of Quinlan Robertson & Janin, Limited, and I see at page 3, under the subdivision of the word "Ledger" the following:—

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

“Name J. A. Lalonde — address, Montreal — 1924, March 10th — by allotment — certificate No. 3 — shares, 1 — balance number of shares, 1 — credit, \$100.00”.

10 “May 11th — to, Hugh Quinlan — transfer No. 1 — share, 1 — debit — \$100.00”.

Are you personally aware of this transfer?

A.—No.

Q.—What I have just read to you is from the ledger?

A.—I am not familiar with it. I suppose it is correct. That is what is there.

20 Q.—It is correct as it appears on sheet No. 3, as I have read it?

A.—Yes.

Q.—Will you please state if the following appears on page 4 of the same book:

“Name, Hugh Quinlan — address — Montreal — 1925 May 11th — by J. A. Lalonde — certificate No. 4 — transfer No. 1 — shares 1, — balance number of shares, 1, credit \$100.00”.

30 Then, on the second line:

“By allotment — certificate No. 8 — shares, 1150 — balance number of shares 1151 — Cr. \$115,000 — balance \$115,100.”

And on the third line, in the margin, the word “June” and above it the figures :

40 “1927 — 22nd — to A. W. Robertson — transfer No. 4 — shares, 1151 — Dr. \$115,100. — balance.....” and there is a little sign which apparently means “nil”.

Is what I have just read to you correct in accordance with what appears on page 4 of this book?

A.—Yes.

Q.—Will you please tell me if the following appears on page 6 of the same book:

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

“Name, A. W. Robertson — address, Montreal — date, 1925, May 11th — by C. J. Malone — certificate No. 6 — transfer No. 3 — shares, 1 balance number of shares 1, cr. \$100.00”

10

I may say above the name of Mr. C. J. Malone there appears the following words: “To or from whom”.

On the second line there is a little tick under the word “by” allotment — “certificate No. 7 — shares — 1150 — balance number of shares, 1151 — Cr. \$115,000 — balance \$115,100”.

In the third line, in the margin there are the words “June 22nd” and above the word “June” there are the figures “1927”.

20 On the third line I read as follows: Under the heading of the words “To or from whom” there is a little tick under the word “by”, which tick is followed by the name “H. Quinlan” followed, under the heading “Certificate number” by the words “10 for 1150”. Then, under the heading “Transfer number” there is the figure “4”. Under the heading “Shares” there is the number “1151”. Under the heading “Balance number of shares” there are the figures “2302”. Under the heading “Cr.” there are the figures “\$115,100”. “Balance, \$230,200”.

30

In the fourth line, in the margin, under the word “June” of the third line, there is a tick, and under the figures “22” there is another tick. Then, under the heading “To or from whom” there is “To L. N. Leamy”. Under the heading “Transfer number” there is “5”. Under the heading “shares” there is the figure “1.” Under the heading “Balance number of shares” there are the figures “2301”. Under the heading “Dr.” there are the figures “\$100.” “Balance, \$230,100”.

40 Is my reading of this page correct?

A.—It is correct as you read it.

Q.—Will you please tell me if the following appears at page 7, and if my reading of this page is correct:

Name, L. N. Leamy — address, Montreal”

In the margin there is the printed word “Date”, and under it the figures “1927”. In the first line there is, in the margin,

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 "June 22nd". Under the printed words "To or from whom" at the top of the first line, there are the words "By A. W. Robertson". Under the heading "Transfer number" there is the figure "5". Under the heading "Shares" there is the figure "1". Under the heading "Balance number of shares" there is the figure "1". Under the word "Cr." there are the figures "100." Under the heading "Balance", there are the figures "\$100."

20 On the second line, in the margin, there is "May 7th", and above the word "May" there are the figures "1928". Under the heading "To or from whom" there are the words "To C. J. Malone". Under the heading "Transfer number" there is the figure "6". Under the heading shares there is the figure "6". Under the heading "Balance number of shares" there is the sign \*. Under the heading "Dr" there are the figures "\$100." Under the heading "Cr." there are the figures "\$100." Under the heading "Balance" there are the figures "00000".

Is my reading of this page correct?

A.—I am not certain of the figures "1928". I do not see how it could be.

30 Q.—Subject to your reservation as to the year, 1923. is my reading of this page correct?

A.—Yes.

40 Q.—Will you please tell me if the following appears on page 2 of the same book: "Name, C. J. Malone — address, Montreal". In the margin there is the printed word "Date", and under it the figures "1924". On the first line I note in the margin, Mar. followed by the figures "10". Under the heading "To or from whom" there are the words "By allotment". Under the heading "Certificate number" there is the figure "1". Under the heading "Transfer number" there is the figure "1", but it is crossed at the top by two little horizontal lines. Under the heading "Shares" there is the figure "1". Under the heading "Balance number of shares", there is the figure "1". Under the heading "Cr." there are the figures "10000". Under the heading "Balance" there are the figures "10000" (presumably \$100.00). In the second line, in the margin, there is the word "May", followed by the figures "11". Under the heading "To or from whom" there is "To A. W. Robertson". Under the heading "Transfer number" there is the figure "3". Under the heading "Shares" there is the figure "1". Under the heading "Balance number of

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

shares" there is the sign "\*". Under the heading "Dr" there are the figures "10000" (presumably \$100.) Under the heading "Balance" there is the sign "\*".

- 10 In the third line, in the margin, there is the word "May", and above it the figures "1928". The word "May" is followed by the figure "7". Under the heading "To or from whom" there are the words "By L. N. Leamy". Under the "certificate number" there is the figure "1". Under the words "Transfer number" there is the figure "6". Under the heading "shares" there is the figure "1". Under the heading "Balance number of shares", there is the figure "1". Under the heading "Dr" there are the figures "10000" (presumably \$100.00). Under the heading "Cr" there are the figures "10000" (presumably \$100.)
- 20 Under the heading "Balance" there are the figures "10000" (presumably \$100.00).

Is my reading of that page correct?

A.—That is correct, except that in the certificate number column the figures "26" appear, with two lines drawn through them.

- 30 Q.—It appears that during the month of June, 1922, A. W. Robertson, Limited, borrowed from Messrs. Hugh Quinlan and Angus W. Robertson jointly the sum of \$13,500, which sum was used to pay off mortgage claim due and owing to Paul Aubertin, as stated in by-law No. 18.

Will you please tell me if A. W. Robertson, Limited, had paid back the whole or part of the said amount to Mr. Hugh Quinlan prior to his death?

A.—No.

- 40 Q.—During the course of your examination you were questioned with reference to a sum of \$550,000 which was furnished to the Government of the Dominion of Canada by Messrs. Hugh Quinlan and Angus W. Robertson personally as security in connection with Section No. 8 of the Welland Ship Canal, and I asked you the following question:

"Q.—Will you please look for any writing signed by Hugh Quinlan personally in connection with this alleged substitution of security, and authorizing this substitution?" and you answered:

"A.—Yes. I will consult the bookkeeper.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And you will produce the writing at the next session of your examination?

A.—Yes. I will look for it”.

10 Did you look for the writing in question?

A.—I consulted our bookkeeper, and I have here the record he gave me in regard to it.

Q.—You now show me a slip of paper which contains written in pencil the following:

“Bonds, returned from Department of Railways and Canals, Ottawa, deposit \$550,000 :

20 December 12th, 1925, \$100,00 — H.Q.

Apr. 27th, 1926, \$225,000 — A.W.R.

Apr. 27th, 1926, \$125,000 — H.Q.

June 7th, 1926, \$50,000 — H.Q.

June 7th, 1926, \$50,000 — A.W.R.”

30 This totals the sum of \$550,000?

A.—Yes.

Q.—In whose handwriting is this document?

A.—L. N. Leamy, our bookkeeper.

Q.—The whole of it?

A.—All of it.

40 Q.—I asked you to look for any writing signed by Mr. Hugh Quinlan personally in connection with the alleged substitution of security and authorizing this substitution. I note, however, this document does not contain the writing of Mr. Hugh Quinlan. As a matter of fact, did you find any such document as mentioned in my question, signed by Mr. Hugh Quinlan?

A.—There are no office records of a document signed by Mr. Quinlan, but the bonds were returned to the Bank of Toronto, and they got them there, Mr. Leamy says. That is where I got mine. Mr. Leamy has the bond numbers that were returned, and Billy Quinlan had them.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Could you obtain the numbers of the bonds which are alleged to have been returned by the Department of Railways and Canals as covered under the dates and for the amounts mentioned in the writing I have just incorporated in your deposition?

10 A.—I will ask Mr. Leamy for them.

By Mr. Beaulieu:—

Q.—I understand it is the Bank that can give those particulars?

A.—The Bank gave all the documents to Mr. Leamy.

Q.—Is Mr. Leamy in possession of the numbers?

A.—Yes.

20 By Mr. Tanner, Continuing,

Q.—Will you also bring with you a copy of a letter which was originally sent to the Government (if any such letter was sent) covering the bonds in question, which letter would probably also give the numbers of the bonds?

A.—Of course I did not keep the books. All I know is Billy Quinlan and L. N. Leamy checked all those bonds of Mr. Quinlan's.

30 Q.—Will you bring with you the correspondence exchanged between the Department and yourselves in connection with those bonds, and also particularly the correspondence concerning their alleged return?

A.—I will try.

Billy Quinlan kept his father's records of those bonds for some years, and Mr. Leamy too.

40 Q.—Do I understand that following June 7th, 1926, the Government of the Dominion of Canada had no security as a guarantee in connection with the construction of Section No. 8 of the Welland Canal?

A.—No, that is not correct. We substituted bonds of A. W. Robertson, Limited, for the private bonds of A. W. Robertson and Hugh Quinlan.

Q.—When did this substitution take place?

A.—Mr. Leamy would be able to tell you that.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Did the substitution take place prior to the death of Mr. Quinlan, for the whole or only for a part?

A.—I don't understand what you mean.

10 Q.—According to you did this substitution take place for the whole of \$550,000 prior to the death of Mr. Quinlan?

A.—All the \$550,000 was not up. On December 12th \$100,000 was returned, and that would leave a balance of \$450,000. On April 27th, there were \$250,000 returned, which would reduce the amount up by that much. When the substitution was made the substitution was the difference between the \$550,000 (the original amount put up) and what was left. We had to substitute whatever the Government asked. Mr. Leamy has the records.

20 Q.—Will you please ascertain what the facts are, between now and the time of your next examination.

A.—I will have Mr. Leamy and the auditor get the records for me. You know I do not keep the books and I am not familiar with them. I have to take what they give me.

Q.—Will you please ascertain how many bonds were still in the possession of the Dominion Government at the time of the death of Mr. Quinlan?

Witness:—Whose bonds?

30 Counsel:—Either the property of Mr. Hugh Quinlan, or of A. W. Robertson, Limited.

A.—There were no bonds of Mr. Quinlan's there.

By Mr. Beaulieu:—

Q.—There were no bonds of Mr. Quinlan's at the time of Mr. Quinlan's death?

40 A.—No. Mr. Quinlan's son Billy had all those records in his own handwriting. He kept his records, and checked them with Mr. Leamy.

By Mr. Tanner, Continuing,

Q.—What would be the total amount of bonds deposited, as you say, by A. W. Robertson, Limited, with the Dominion Government?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 A.—A. W. Robertson, Limited, did not deposit any bonds with the Dominion Government originally. The only bonds deposited were Hugh Quinlan's, and mine, fifty fifty. When the substitution was made A. W. Robertson Limited put up the balance of the bonds, so that we could get back all ours. Our books will show what it is.

Q.—Do I understand that A. W. Robertson, Limited, did not deposit with the Government other bonds than those bonds in connection with Section 8 of the Welland Canal?

A.—A. W. Robertson, Limited, had no deposits except such as they put up to substitute for the bonds of A. W. Robertson and Hugh Quinlan.

Q.—Does this answer apply also in connection with all other contracts of A. W. Robertson, Limited, with other parties?

20 A.—Yes, with the exception of two or three little dredging jobs. The records are in the books. They would only amount to a few thousand dollars.

Q.—What kind of bonds were those? Bearer bonds?

A.—Yes, all those bonds were bearer bonds, I think. I do not know. Mr. Leamy and Mr. Billy Quinlan will have that. The Government would not take any other bonds, unless they had a proper transfer of them. Still, there may have been some he had in his own.

30 Q.—Does the balance sheet of A. W. Robertson, Limited, contain as a part of the assets for the years 1926 and 1927 the bonds which were so deposited with the Government in substitution for the other bonds?

Witness:—Do you mean does the balance sheet of A. W. Robertson, Limited, show all the possessions of A. W. Robertson, Limited?

40 Counsel:—No. I just want to know if the balance sheet of A. W. Robertson, Limited, shows as a part of the assets of this company, in a specific manner, the bonds which were deposited with the Dominion Government, as you allege, as security in connection with Section 8 of the Welland Canal?

A.—The balance sheet would show the assets of A. W. Robertson, Limited, among which would be any bonds they put up in substitution of the bonds of Hugh Quinlan and myself.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Is there any mention made in the balance sheet, or in the statements of affairs of A. W. Robertson, Limited, during any of those years, that bonds were deposited with the Federal Government as security in connection with the Welland Canal?

10 A.—I think not. That would be information contained in the minutes of the meetings, and Mr. George Campbell drafted those minutes; and Mr. Quinlan, myself, the auditor, and Mr. Leamy were familiar with it. We knew the bonds were my personal bonds, and Mr. Hugh Quinlan's personal bonds.

Q.—I have no doubt the original bonds deposited in Ottawa were your joint property. The minute also is to that effect. However, I have not found in the minutes of A. W. Robertson, Limited, any minute authorizing the taking of bonds of A. W. Robertson, Limited, for the purpose of depositing them in Ot-  
20 tawa in substitution for the other bonds? How do you explain that?

A.—Very readily. If we had bonds accumulated, as we did have, of A. W. Robertson, Limited, we took those bonds and sent them to Ottawa and got back our own bonds. That would return the private bonds of A. W. Robertson and Hugh Quinlan.

Q.—No minute appears to have been passed to that effect?

A.—No, but the Government would have a record of the substitution.

Q.—I just wanted to find out how it happened that no mi-  
30 nute to that effect was passed. I suppose it was overlooked?

A.—Unfortunately we did not pay much attention to minutes, apparently. We took that for granted. It was never suggested to us to record that.

Q.—I believe you have already told us in a general way what was the business of the Ontario Amiesite Asphalt, Limited. Will you please give me a list of its assets? I am not speaking of the values, but I would like to have a list of the assets. On what did the assets consist?

40 A.—An amiesite plant at Dundas, and I suppose (although I am not familiar with it) the little bit of other plant they had. Also whatever drawbacks are out on contracts. As to their liabilities, I know Mr. Janin and I guaranteed the Bank of Toronto \$100,000.

Q.—That is the indirect liability. What are the direct liabilities?

A.—I could not tell you that without getting a statement from the auditor.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—What auditor?

A.—Petrie is the auditor.

Q.—Will you please be prepared to answer this question at the next session?

10

Mr. Beaulieu:—I object to that? You are not bound to make any research, Mr. Robertson. You may state what you know. You have nothing to add to what you have said.

Mr. Tanner:—I will change the form of my question.

Witness:—Without taking the indirect liabilities into consideration I could not make any statement, because not later than  
20 Saturday our bookkeeper pointed out to me that apart from the guarantee with the Bank of Toronto, of \$100,000, that Mr. Janin and I personally were responsible to the Bond Companies for \$184,000.

By Mr. Tanner, Continuing,

Q.—How often have you personally had to pay to third parties the whole or part of your guarantees for the Ontario Amiesite Asphalt, Limited?  
30

A.—I do not think it is fair to ask me that question, because we are competing with other people. I may, however, say we have spent considerable money during the past year making good bond guarantees.

Q.—I wish to know, as a result of the default (if such default ever existed) of the Ontario Amiesite Asphalt, Limited, in meeting its liabilities or in fulfilling its obligations were you ever called upon to pay personally?

40

Mr. Beaulieu:—I object to the question as irrelevant.

Mr. Tanner:—This question flows definitely from the answer of the witness. Mr. Robertson leaves me under the impression that he may have paid certain amounts of money because of guarantees.

Mr. Beaulieu:—Your first question was illegal, and this one is more illegal, so I am interfering now.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Mr. Tanner:—I am questioning the witness on his own Plea in connection with the values.

10 Mr. Beaulieu:—What Mr. Robertson may have to pay personally has nothing to do with the values of the shares of the Ontario Amiesite Asphalt Company.

Mr. Tanner:—It is alleged that they were released of obligations.

Witness:—I have not paid anything personally.

By Mr. Tanner, Continuing,

20 Q.—Apart from those indirect liabilities as to guarantees by yourself or by yourself and Mr. Janin jointly.....

Witness (interrupting) And Mr. Rayner.....

Counsel (continuing) What were the liabilities of the Ontario Amiesite Asphalt Company in the year 1927?

A.—I could not say offhand what they were.

Q.—Roughly?

30 A.—The allegation is based on actual facts, taken from the books.

Q.—I am now trying to ascertain on what facts the allegation is based? What was the value of this Amiesite plant owned by the Ontario Amiesite Asphalt Company? About how much did it cost to build?

A.—I am not prepared to say.

Q.—Would it be a \$5000 proposition or a \$250,000 proposition?

40 A.—It would be a good deal nearer to \$5000.00. I should say the actual plant could be duplicated for \$17,000 to \$20,000 — although, that is only a guess.

Q.—What were the accounts receivable?

Witness:—At that time?

Counsel:—Yes.

A.—It appeared on the statement, and the Trust Company has that.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—You do not remember?

A.—No, I do not not.

Q.—What was the amount of cash in bank in the name of the Ontario Amiesite Company?

10

Witness:—In June?

Counsel:—During the year 1927.

A.—I only recollect in June I personally had to guarantee \$25,000, when Mr. Quinlan refused to guarantee more. My recollection is they owed the Bank about \$60,000. I do not know what they owed the public.

Q.—What assets had they to offset this indebtedness to the Bank, apart from the plant?

20 A.—The balance sheet shows the story, if the plant were worth what it is shown as on the balance sheet. I have not the figures, of course. The Capital Trust had them.

Q.—You say the shares of the Ontario Amiesite Asphalt Company were of little or no value in the month of June, 1927. On what banks do you base yourself for that statement?

A.—The fact that it was a losing proposition.

Q.—But, the question of whether it made profit or did not make profit would affect the profit and loss account, but it would not in any way affect the capital value except to the extent of the losses which had actually been incurred?

30

Mr. Beaulieu:—That is a discussion, not a question, and the witness is not bound to enter into a discussion.

Witness:—I have no objection to telling.

40 The reason was we put no money in it. It was all borrowed capital. Neither Mr. Quinlan nor Mr. Robertson nor Mr. Janin put any money in it. Mr. Miller put in a little money, and took it out. Mr. Kilmer put in a little money, and took it out. Mr. Quinlan, Mr. Robertson and Mr. Janin put in only borrowed money.

By Mr. Tanner, Continuing,

Q.—Do you mean to say no assets were accumulated over and above the debts at any time?



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I mean to say at that time the company was not worth two cents as a liquid proposition.

Q.—That is a conclusion, or an expression of opinion. Will you please answer my question now?

10 Mr. Beaulieu:—The answer is given, and the witness has no other answer to give.

By Mr. Tanner, Continuing,

Q.—I have asked you the question if assets were accumulated over and above the liabilities?

A.—No. Deficits were accumulated.

20 Q.—So, according to you the shares of the Ontario Amiesite Asphalt Company, and the Company itself, were worthless?

A.—I would not have paid anything for it myself.

Q.—But, were they of no value?

A.—They were not, to me.

Q.—Leaving yourself out of it.

Mr. Beaulieu:—The witness cannot speak for anyone else but himself.

30 Witness:—I do not know what other people may think of it; but I do know they all got out of it and left us to pay the debts.

By Mr. Tanner, continuing:—

Q.—You know statements of the Ontario Amiesite Asphalt Company were furnished to Duns and Bradstreets?

A.—No, I do not.

Q.—You never saw any such statements?

40 A.—I never saw any that were furnished to Duns or Bradstreets.

Q.—Did you furnish any?

A.—I did not.

I was not running the Ontario Amiesite Asphalt Company. Mr. Miller was in that, and he asked to be relieved of his responsibility and to get back his money.

Q.—What is Mr. Miller's first name?

A.—Roy.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—What is his address?

A.—Roger Miller & Sons, Limited, Toronto.

Q.—Is this company still carrying on business?

10 Witness:—Which company?

Counsel:—The Ontario Amiesite Asphalt Company.

A.—They are trying to.

Q.—Prior to June, 1927, had it obtained contracts for the building of roads in Ontario, or other contracts?

A.—Yes.

Q.—What was the amount of the last contract obtained?

A.—I have not the remotest idea.

20 Q.—Who are the present directors of the Ontario Amiesite Asphalt Company?

A.—I am President.

Q.—Who is Secretary?

A.—Mr. Fred Cooper, I think.

Q.—What is his address?

A.—159 Bay Street, Toronto.

Q.—Who are the other directors?

A.—Mr. R. Cummings, and Mr. Rayner, I think. I am not certain whether Mr. Rayner is still on the Board or not.

30 Q.—Is Mr. Janin a director of that company?

A.—No. He is a shareholder.

Q.—How many shares do you own?

A.—I own about 38 or 40% of the stock, I think.

Q.—What is the total amount of stock issued?

A.—I think 1000 shares.

Q.—When was this company organized?

A.—I do not know. It is several years ago.

Q.—How many shares are owned by Mr. Janin?

40 A.—Virtually the same as I have, I think. I am not positive of that.

Q.—Was Mr. Quinlan a director of this company at any time?

A.—I am not sure.

Q.—Were you President of the Company prior to Mr. Quinlan's death?

A.—I am hazy on that. My recollection is I was made President when no one else would take it. I know I have tried to be relieved of it several times, but cannot get out.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—From what you have said you have left me with the impression that the Ontario Amiesite Asphalt Company had a large number of liabilities.

10      Witness:—Indirect?

Counsel:—No: direct liabilities. Can you tell me a few of the names of the larger creditors of this company at the time of Mr. Quinlan's death or thereabouts?

A.—The Bank of Toronto.

Q.—A direct liability?

A.—Yes.

Q.—Any others?

20      A.—I do not know the ordinary creditors.

Q.—Was money borrowed between divers companies?

Witness:—For them?

Counsel:—Yes.

A.—Yes.

Q.—Did the Ontario Amiesite Asphalt Company borrow from other companies in which you were interested?

30      A.—Yes, I think so.

Q.—What companies?

A.—I think they borrowed from the company here, but I have not the figures at the moment to guide me as to that.

Q.—Which company here?

A.—They borrowed from the Amiesite Company here, perhaps, or from Quinlan Robertson & Janin, Limited.

Q.—Were they small loans, of \$1000.00 or \$2000.00?

40      A.—No, they would be very substantial loans, because Mr. Janin, Mr. Quinlan and myself were primarily responsible for the Ontario Amiesite Company.

Q.—What would the approximate amount of the sums borrowed in that way?

A.—I would rather not hazard a guess, but I would not be surprised to know that they might have owed this office \$100,000.

Q.—Were any of those loans repaid by the Ontario Amiesite Asphalt Company to the other company since 1927?

A.—I would have to look up the books. I think not — not in 1927.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—I mean, after 1927: between June, 1927, and the present time?

A.—Oh, yes.

Q.—Approximately how much?

10 A.—They are not debtors here to any extent.

Q.—To is to say, they have repaid whatever sums they borrowed?

A.—Yes, I think so.

Q.—Were other indebtednesses incurred to repay those loans, or were the loans repaid out of profits since June, 1927?

A.—They were repaid, I presume, out of revenues, or something, from the company.

20 And the further examination of the witness is continued until thursday next, November 28th, at three o'clock in the afternoon.

And further for the present deponent saith not.

J. Kenehan,  
Official Court Reporter.

30 And on this eleventh day of December, in the year of Our Lord one thousand nine hundred and twenty nine personally came and reappeared the said witness Angus W. Robertson and his examination was continued as follows:—

By Mr. Masson, K. C.,

Q.—You told us that your consent to finance the Amiesite Asphalt and the Maccurban Asphalt was the consideration of issuing in your favor the number of shares you held in those Companies?

40 A.—My recollection is that was why we got the stock — for the patents, or something. Janin distributed them on the understanding between us.

Q.—In other words, the fact of Mr. Janin transferring certain patent rights and your consent to finance the Companies?

A.—I am not clear on that. I know we financed it in that way, and that we got the stock, but just under what conditions I cannot remember.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—I understand that at first the shares of the Maccurban Asphalt, Limited, were issued in favor of a person, whose name I do not remember, and later on a part of those shares was transferred to you?

10 A.—I had one third of them.

Q.—But, at first the shares were issued from the Treasury of the Company to someone else?

A.—Yes.

Q.—And, that person transferred one third of them to you?

A.—Yes, but I am not familiar with that.

Q.—You did not get your shares from the Treasury of the Company?

A.—I do not think so.

20 Q.—And, you did not give anything at all for the transfer of those shares to the party who got them from the Treasury of the Company?

A.—No.

Q.—Then, what was the consideration besides tangible assets of the transfer of one third of the shares to you?

A.—That I would assist Janin in financing the Company.

Q.—I understand those companies were getting the contracts, and that those contracts were executed by Quinlan Robertson & Janin, Limited?

30 Witness:—How could they be executed by them?

Counsel:—By way of transfer. You do not mean the Amiesite Company or the Maccurban Company had the proper plant to do the work they were contracting for?

A.—As far as I know they certainly did.

Q.—They had a plant of their own?

A.—Yes.

40 Q.—Where was it situated?

Witness:—Which plant?

Counsel:—To do the work they had to do. They needed some machinery to make the asphalt, and they needed equipment, material, and so on?

A.—Janin managed those companies, I did not.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—So, you do not know whether those companies had any material or machinery or tools with which they did the work they undertook?

A.—I know they had plants.

10 Q.—Where was that plant situated?

A.—The Amiesite plant was in the north end, in Montreal; and the Maccurban plant was in St. Vincent de Paul quarry.

Q.—Was that the Villeray quarry?

A.—No.

Q.—So, both those companies had plants of their own?

A.—Yes.

Q.—With which they did the work they undertook?

A.—I do not know all the work they were undertaking.

20 Q.—Is it not true, as a matter of fact, certain contracts which were obtained by the Amiesite Company, or by the Maccurban Company, were executed by Quinlan Robertson & Janin, Limited?

A.—Not to my knowledge.

Q.—But, it is possible it happened?

A.—It might be.

Q.—If those companies were helped in executing the contracts they undertook it was by Quinlan Robertson & Janin, Limited?

A.—I do not know that.

30 Q.—Who is the one who would be supposed to know it?

A.—Mr. Janin.

Q.—You told us before you did not invest any money to finance those companies?

A.—I did not invest any money to get the stock.

Q.—Did you finance the companies, as a matter of fact? I think you have already told us you did not?

A.—I was responsible.

Q.—In what way?

A.—For any debts they contracted.

40 Q.—In what way was that responsibility contracted?

A.—If they borrowed money.

Q.—As a matter of fact, did they borrow money?

A.—They must have done so, to operate.

Q.—Is it to your knowledge they did?

A.—Yes.

Q.—From whom?

A.—They borrowed money from the bank.

Q.—Which bank?

A.—The Bank of Toronto.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—And, you gave security to the Bank of Toronto, or endorsed, or held yourself responsible?

A.—I might have. The Bank might have given it without my endorsement, so long as they knew I was in it.

10 Q.—But, you know whether you endorsed or not?

A.—I would have to have the records to find that out.

Q.—What records would you require?

A.—The records from the Bank, in order to find out what I did there.

Q.—Do you mean you do not know whether you were held responsible for the financing of certain contracts of the Maccurban Company or the Amiesite Company?

A.—Certainly: I would forget it.

Q.—If you did anything, Mr. Janin did the same as you?

20 A.—Very likely, unless there was an omission.

Q.—Was your obligation to finance those companies an obligation in writing, or a verbal obligation?

A.—I would require to go to the Bank and discuss it with Janin to find that out now.

Q.—So, if there is any obligation on your part holding you responsible for any advance of money to those companies the bank would have it in its possession?

A.—No, the Bank might not.

30 Q.—Who would be supposed to have it, if the Bank has not got it?

A.—My experience in endorsing notes is I get them back when they are retired.

Q.—Did you get the notes back in regard to the Amiesite Company or the Maccurban Company?

A.—I have not them now. I never kept them. They would go to the office.

40 Q.—When those companies were sold to the W. P. Macdonald Company were you released from your responsibility to finance those companies, or from your responsibility so far as loans or advances to those companies were concerned?

Witness:—By whom?

Counsel:—By the party towards whom you were responsible.

A.—I do not know whether they owed anything of any consequence at that time.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—But, you are positive that at a certain time you guaranteed the advance of moneys to those companies?

A.—Yes.

Q.—To the Bank?

10

A.—To the Bank.

Q.—You are positive of that?

A.—Yes.

Q.—You were holding yourself personally responsible?

A.—Personally responsible. I spoke to the Bank for credit for them.

Q.—Is it not a fact that it was not yourself personally who secured or guaranteed the reimbursement of any loans or advances to those companies?

20

Witness:—You mean in conjunction with others?

Counsel:—I mean it was Quinlan Robertson & Janin, Limited.

A.—It may have been, but I was always responsible to the Bank for Quinlan Robertson & Janin, Limited.

30 Q.—So, what happened in so far as the financing of the Amiesite Company and the Maccurban Company was concerned was that the advances of money and the loans were secured by Quinlan Robertson & Janin, Limited, but as you were personally guaranteeing Quinlan Robertson & Janin, Limited, you conclude you were also personally responsible for the Maccurban Company and the Amiesite Company?

A.—That would be my conclusion, yes.

40 Q.—So, I understand from the facts you have explained to me, Quinlan Robertson & Janin, Limited, secured the reimbursement of the loans and advances to the Amiesite Asphalt Company, Limited, and to the Maccurban Asphalt, Limited, and you, as a director of Quinlan Robertson & Janin, Limited.....

A.—(Interrupting). Not as a director of Quinlan, Robertson & Janin, Limited, at all, but as an individual.

Q.—You personally guaranteed the reimbursement to the Company any advances or whatever was owed by Quinlan Robertson & Janin, Limited?

A.—I could not carry all the financing of those companies in my mind. I could not tell you that.

Q.—So it not true, and you know it?



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Mr. Beaulieu:—The witness says he cannot carry it in his mind, and it is not fair to say he knows it.

10 Witness:—If you want to know if it is a fact that in our companies we make a practice of one company helping the other, that is the case.

By Mr. Masson, Continuing,

Q.—So, the practice in the case of the Amiesite Company and the Maccurban Company was that the other companies were helping them?

10 A.—They may have. I do not know just to what extent. I know it is my practice in our business, where we have the same interests, or nearly the same interests, or where one takes the responsibility for it.

Q.—You remember you sent to the Succession Duties Department a report as to the current assets of Quinlan Robertson & Janin, Limited, for the purpose of valuating the shares of that company?

A.—Yes.

30 You mean I sent that statement as an executor with the Trust Company: yes.

Q.—In that statement which was sent to the Succession Duties Office for the year 1925, in reference to Quinlan, Robertson & Janin, Limited, I find that you considered the Amiesite Asphalt, Limited, as an asset for \$48,579.74?

Mr. Beaulieu:—I object to the question. If you want to examine the witness on a document, show him the document. If you have not the document, the witness is not bound to answer.

40 Mr. Masson:—I will withdraw the question for the moment.

By Mr. Masson, Continuing,

Q.—Did you send a written statement to the Succession Duties Office in reference to Quinlan, Robertson & Janin, Limited, showing that the Amiesite Asphalt, Limited, was considered as a debtor of Quinlan Robertson & Janin, Limited, for \$48,579.74?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 Mr. Beaulieu:—I make the same objection. The witness is entitled to have the document before him. You may ask him if he sent a statement, but when you ask him what was in that statement my objection comes in, and we will have to have it decided by the Court.

Mr. Masson:—Then, we will discuss it before the Judge.

Mr. Beaulieu:—Very well. You may go home now, Mr. Robertson. We will not require you any more this afternoon.

Mr. Masson:—I object to the witness leaving, and ask that he come before the Judge.

20 Mr. Beaulieu:—I take the responsibility of telling the witness he may go.

Plaintiff's counsel appears before his Lordship Mr. Justice Surveyer, and the defendant and his attorneys being duly called make default.

30 Mr. Justice Surveyer:—There seems to be no reason why the Defendant should not answer the above questions, and he is ordered to answer them.

The stenographer then returned to room No. 8 Court House, where the foregoing examination had been proceeding, but the witness and his attorney were not there.

And further for the present deponent saith not.

J. H. Kenehan,  
Official Court Reporter.

40 On this eighteenth day of December, in the year of Our Lord one thousand nine hundred and twenty nine personally came and reappeared the said witness Angus W. Robertson, and his examination was continued as follows :—

Mr. Beaulieu, K.C., of Counsel for Defendant Robertson, respectfully takes exception to the decision of His Lordship Mr. Justice Surveyer ordering the witness to answer.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

By Mr. Masson :—

Q.—The last question put to you at your examination was :

10           “ Did you send a written statement to the Succession Duties Office in reference to Quinlan, Robertson & Janin, Limited, showing that the Amiesite Asphalt Limited was considered as a debtor of Quinlan, Robertson & Janin, Limited, for \$48,579.74 ? ”

A.—Will you show me the document, please, so that I may know.

20           Q.—I have not the official document, but I will show you what I have as a matter of courtesy. Was the original of this sent to the Revenue Office ?

A.—I cannot remember that, of course. I would have to see the audited statement.

Q.—Do you remember having sent a report to the Government Succession Duties Office in reference to Quinlan, Robertson & Janin, Limited, for the purpose of valuating the shares of that company ?

A.—I have no recollection of any document in particular. I cooperated with the Trust Company, but I have forgotten what was sent.

30           Q.—In any event, it is to your knowledge that certain papers were sent to the Succession Duties Office in reference to Quinlan, Robertson & Janin, Limited, for the purpose of valuating the shares of that company ?

A.—I remember documents that were sent, but I would have to see the documents to know whether they are the ones to which you refer.

40           Q.—It is to your knowledge that the documents which were sent to the Succession Duties Office were the balance sheet of Quinlan, Robertson & Janin, Limited, for a certain number of years ?

A.—I would have to see the document before answering that question.

Q.—Do you know of any documents that were sent by the Executors, including yourself, to the Succession Duties Office ?

A.—I know there were documents sent for the purpose of arriving at a valuation of the Quinlan Estate.

Q.—You saw those papers before they were sent ?

A.—I cannot say I saw them all. I saw some of them.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—What was the nature of those you saw? Were they balance sheets, or inventories, or anything of the kind?

A.—I cannot possibly remember what they were; but if I see the statements I will know whether or not they are audited statements, if they are signed by our auditors.

10 Q.—I understand the papers which were sent, and part of which you saw, were papers which enabled a valuation of the shares of the Company, because they were sent for that purpose?

A.—I remember now, seeing that you refer to it, that the Trust Company made a mistake, or one of their men made a mistake, in sending a statement, including the shares of Quinlan, Robertson & Janin, Limited, in the Estate.

20 Q.—I object to the answer, and I tell you my question is not to that effect. I ask you if the papers which were sent to the Government were to enable a valuation of the shares of Quinlan, Robertson, Janin, Limited?

A.—If they were sent, and I see the statement properly authenticated by the Auditor, I would know whether I saw it or not.

Q.—Did you ever see any papers in reference to Quinlan, Robertson & Janin, Limited, which were sent to the Government for the purpose of valuating the shares?

A.—I cannot swear that. I have discussed the matter with the Trust Company.

30 Q.—Did you see any papers which were sent by the Executors, yourself or the Trust Company, in reference to Quinlan, Robertson & Janin, Limited?

A.—It would be necessary that I should have sent them myself in order for me to know that. I did not send any personally.

Q.—Did you see any?

A.—How do I know, unless I sent them myself, if they went there.

Q.—Is it possible the Trust Company sent some papers which were shown to you before they were sent?

40 A.—It might have.

Q.—You said a moment ago you saw part of those papers?

A.—They discussed the matter with me.

Q.—Did you see part of those papers?

A.—I do not know. How would I know whether or not the papers another man had were sent?

Q.—You said a moment ago you remembered having seen a part of those papers. Now you say you do not remember. Which is the correct answer? Do you remember, or do you not remember, whether you saw some?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I discussed with the Trust Company a valuation of the shares of the Quinlan Estate.

10 Q.—But, I am not asking you that. A moment ago you said you remembered having seen a part of those papers that were sent?

A.—I presume they were sent, but I do not know they were sent. I did not send them.

Q.—Did you see any papers that were supposed to be sent to the Government for the purpose of valuating the shares of Quinlan, Robertson & Janin?

A.—I would have to go into that very carefully to know.

Q.—So, you do not remember?

A.—I do not remember personally having sent any papers, nor being positive that they did go.

20 Q.—Do you remember papers having been shown to you, and having seen them — I am referring to papers which were supposed to be sent to the Government Office for the purpose of valuating the shares of Quinlan, Robertson & Janin, Limited?

A.—I discussed papers with the Trust Company but I cannot remember now just what papers they were.

Q.—And, those papers which you discussed with the Trust Company were supposed to be sent to the Succession Duties Office?

30 A.—They were supposed to be a basis on which to form an estimate of the valuation of the Quinlan Estate.

Q.—And, they were supposed to be sent to the Succession Duties Office by the Trust Company?

A.—I do not know the exact procedure of how they were sent, or anything about them.

Q.—But, they were supposed to be sent?

40 A.—The Trust Company does the bookkeeping and all the detail work of the Estate.

Q.—When you saw those papers was it to your knowledge whether they were supposed to be sent to the Succession Duties Office or not? When you saw them were they supposed to be sent to the Succession Duties Office?

A.—I supposed they were. I supposed they formed the basis of something to be sent there.

Q.—Did you see what was sent?

A.—No.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Was it shown to you?

A.—I do not know. I cannot say until I see the documents. I cannot remember what they sent. How can I know at this date what was sent there, unless they were shown to me and they said they sent them?

10 Q.—Did Mr. Janin supply any papers for that purpose?

A.—I do not remember that.

Q.—To your knowledge was he asked to file with or give any papers to the Trust Company, or to yourself, or to the Succession Duties Office, for the purpose of valuating those shares?

A.—I cannot remember now. The Trust Company might remember that; I do not.

Q.—Was it to your knowledge at any time that Quinlan, Robertson & Janin, Limited, were the creditors of the Amiesite Asphalt, Limited, for a large amount?

20 A.—I know this : that the policy in the companies was that Mr. Janin was managing all the companies, and was privileged to manage them according to his own judgment. He discussed the finances of the companies verbally with Mr. Quinlan and myself on several occasions, and he had a very free hand in operating them.

Q.—Apart from what you have just told me (and which is to your knowledge) do you know anything else about Quinlan, Robertson & Janin, Limited, being at a certain time a creditor of the Amiesite Asphalt, Limited, for a large amount?

30 A.—I see it there. You showed it to me. I no doubt knew it at the time, but it has passed out of my memory.

Q.—So, it is possible Quinlan, Robertson & Janin, Limited, was a creditor of the Amiesite Asphalt, Limited, for the sum of \$48,579.75?

A.—If the auditor says so.

Q.—What was the consideration of that indebtedness of the Amiesite Asphalt, Limited, towards Quinlan, Robertson & Janin, Limited? Was it a financing of the Amiesite Asphalt, Limited?

40 A.—I would have to tell you to ask Mr. Janin that. I did not look after that.

Q.—Every year a statement of Quinlan, Robertson and Janin, Limited, or the balance sheet, was shown to you?

A.—Yes, I presume so.

Q.—You read it?

A.—Casually.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—A report was made to you on the contracts taken by Quinlan, Robertson & Janin, and on the balance due at the end of the year on those contracts?

10 Witness:—What do you mean by that?

Counsel:—A report of Quinlan, Robertson & Janin, Limited.

A.—Be specific about “ a report. ” I do not know what you mean by “ a report. ”

Q.—A report made by the auditors, or by your bookkeeper, some time during the year, or at the end of the year, or on March 31st of each year, showing the contracts taken and executed by Quinlan, Robertson & Janin during the year, and, moreover,  
20 showing the balance due on each of those contracts?

A.—The audited statement would be the only report I would receive.

Q.—Your bookkeeper never made any report to you?

A.—No.

Q.—Mr. Janin never made any report to you?

A.—Not unless it was a verbal report, and it would pass out of my memory as a current matter.

Q.—So, your memory does not permit you to remember today that at a certain time the Amiesite Asphalt, Limited, was  
30 the debtor of Quinlan, Robertson & Janin, Limited?

A.—If you give me the audited statements, and the auditor says he handed them to me, I will acknowledge I got the statements. That is all I know about it. If it is there I accept it as correct, from the auditors' statements.

Q.—Does your memory permit you to remember that at a certain time the Amiesite Asphalt, Limited, was the debtor of Quinlan, Robertson & Janin, Limited? Is your memory sufficiently good for that?

40 A.—I would have to go over the statements. It is not a question of memory : it is a question of fact.

Q.—But, your memory is a question of fact too, in the sense that it is a question of your remembering the facts.

A.—If it is recorded there it is a bookkeeping fact.

Q.—Without referring to the statements of Quinlan, Robertson & Janin, Limited, your memory is not sufficiently good to allow you to remember that at a certain time.....

A.—(Interrupting). Nothing specific as to amount at all.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Without specifying any amount?

A.—I am not going to make any statement as to any amount at all, unless you ask me from a document I know I received.

10 Q.—Apart from the amount which might have been owed by the Amiesite Asphalt, Limited, is your memory sufficiently good to permit you to remember, or do you remember, that the Amiesite Asphalt, Limited, was the debtor of Quinlan, Robertson & Janin, Ltd., at a certain time?

Witness:—When was the certain time?

Counsel:—For instance, during the years 1924, 1925, 1926, 1927, and 1928, was the Amiesite Asphalt, Ltd. the debtor of Quinlan, Robertson & Janin, Limited?

20

A.—If it says so there, I have no doubt it was : but, I am not going to answer something I do not know.

Q.—But, you know whether your memory is sufficiently good to permit you to remember whether or not from 1924 to 1927 the Amiesite Asphalt, Limited, was at any time the debtor of Quinlan, Robertson & Janin, Limited?

A.—If the books say so I admit it is the case.

Q.—Without the books you cannot remember?

30 A.—All I can remember is that Mr. Quinlan, Mr. Janin and myself discussed the finances of the Companies verbally, and Mr. Janin was privileged to operate the companies by lending money from one to the other if he chose, and there was no objection taken to it. Mr. Quinlan and I gave him carte blanche to do it.

Q.—Apart from that your memory does not permit you to remember anything further?

A.—No details, no.

Q.—You cannot remember anything besides the fact that the Amiesite Asphalt, Limited, was the debtor of Quinlan, Robertson & Janin, Limited?

40 A.—I remember in the beginning of the Amiesite Company we, as individual, agreed to finance it. What the financing amounted to has passed out of my memory and I have forgotten it.

Q.—You do not remember when the Amiesite Company was the debtor of Quinlan, Robertson & Janin, Limited?

A.—I would have to go by the audited statements, or statements furnished me by the auditor, and whatever they show would be correct.



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Without those statements you cannot remember whether the Amiesite Company was the debtor of Quinlan, Robertson & Janin, Limited?

10. A.—I would have to get my memory refreshed on it, because Mr. Janin managed those businesses entirely.

Q.—At the present time you do not remember?

A.—No.

Q.—And, the same answers apply, I suppose, to the indebtedness of the Ontario Amiesite, Limited, towards Quinlan, Robertson & Janin, Limited?

A.—No. I remember they owed them money.

Q.—You remember the Ontario Amiesite, Limited, owed money to Quinlan, Robertson & Janin, Limited?

A.—Yes.

20. Q.—What about the Maccurban?

A.—I think they owned money, but I do not know how much.

Q.—You admit that at a certain time the Maccurban Company owed money to Quinlan, Robertson & Janin, Limited?

A.—Yes.

Q.—But, you do not know how much?

A.—No.

Q.—What machinery did the Amiesite Asphalt, Limited, use in executing its work?

30. A.—If you want to get that information you will have to ask Mr. Janin.

Q.—Is it to your knowledge that the Amiesite Asphalt, Limited, had mixers of its own?

Witness:—What do you mean by mixers?

Counsel:—To make the roads.

40. A.—Yes. They had a plant when I was interested in the company.

Q.—I think you have already told us where that plant was situated?

A.—Yes.

Q.—On Masson Street, I think you said?

A.—It is on a vacant piece of property in Rosemount.

Q.—Was that the only place they had plant?

A.—I do not know that.

Q.—Had the Maccurban Company a plant of its own?

A.—I do not know. I am not interested in the Maccurban Company.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—At the time you were interested in it did it have a plant of its own?

A.—Yes.

Q.—Where was it situated?

10 A.—One was at St. Vincent de Paul.

Q.—Did you ever see that plant?

A.—I did.

Q.—What kind of machinery and tools were in that plant?

A.—I can only answer that by saying it was a plant equipped for that class of work.

Q.—You remember having seen some machinery in that plant at St. Vincent de Paul?

A.—I remember having seen the plant.

Q.—But, the plant included some machinery?

20 A.—Yes.

Q.—What kind of machinery did you see there?

A.—Machinery for mixing materials such as they produced.

Q.—Mixers?

A.—Yes.

Q.—How many?

A.—I do not know.

Q.—And, that plant was the property of the Maccurban Asphalt, Limited?

A.—Yes.

30 Q.—From whom was it acquired?

Witness:—How should I know?

Counsel:—You were interested in the Company to the extent of one third?

A.—Yes.

Q.—And, you do not know from whom the plant was acquired?

40 A.—No. I would have to see the books for that.

Q.—Do you remember about what year that plant was acquired by the Maccurban Asphalt, Limited?

A.—I could tell within five years, but I do not know just when.

Q.—Had Quinlan, Robertson & Janin, Limited, a plant in St. Vincent de Paul?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Witness:—What kind of a plant ? You know in asking me that question you are asking me anything that I can answer.

10 Counsel:—No, I do not know that. You are interested in those companies, and you are supposed to know everything I am asking you, and if you do not know it is because your memory is not sufficiently good.

A.—It is not a question of memory at all.

Q.—It is a question of knowing the assets of the companies in which you are interested ?

A.—They have innumerable pieces of plant.

Q.—Quinlan, Robertson & Janin, Limited ?

20 A.—No, the company that succeeded them : Quinlan, Robertson & Janin, Limited, are not operating under that name at all.

Q.—May be they are not today, but they were before ?

Witness:—Before when ?

Counsel:—Before the name was changed they were operating under the name of Quinlan, Robertson & Janin, Limited ?

30 A.—Yes.

Q.—Did they ever possess a plant at St. Vincent de Paul ?

A.—I do not know that.

Q.—Before the incorporation of the Maccurban Asphalt, Limited, was any of your companies the owner of any plant in St. Vincent de Paul ?

A.—I do not recollect they were. I do not think they were.

Q.—Is it not to your knowledge that Quinlan, Robertson & Janin, Limited, or A. W. Robertson, Limited, before the incorporation of the Maccurban Asphalt, Limited, were the owners of  
40 plant in St. Vincent de Paul ?

A.—No, it is not to my knowledge.

Q.—Is it not true that Quinlan, Robertson & Janin, Limited, or A. W. Robertson, Limited, had a plant in St. Vincent de Paul ?

A.—I do not know.

Q.—Who could tell me that ?

A.—Mr. Janin would probably know that. He was managing the companies. However, he would not know anything about A. W. Robertson, Limited : he had nothing to do with it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Did you at any time transfer to any bank, or to anyone else, for the purpose of financing the contracts of any of your companies, the shares which you had in the companies in which you were interested?

10 A.—That is my affair, is it not? Am I not privileged to finance my companies the way I wish?

Q.—Did you ever transfer any shares of A. W. Robertson, Limited, for the purpose of financing the contracts of those companies in which you were interested?

A.—Just let me understand you. I have shares in A. W. Robertson, Limited — my own personal shares. Just what do you mean? Do you want to know if I ever legally transferred those shares to anyone?

20 Counsel:—Yes : for the purpose of financing.

Witness:—For the purpose of financing what?

Counsel:—The contracts?

Witness:—What contracts?

Counsel:—Of any of the companies in which you were interested?

30 Witness:—What has that to do with this?

Counsel:—It is very important.

Mr. Beaulieu:—I object to this line of evidence as irrelevant.

The objection is reserved by consent of the parties in the absence of a Judge.

40 Witness:—I am in companies other than these companies.

My A. W. Robertson, Limited, shares are still in my possession, and have always been.

By Mr. Masson, continuing :—

Q.—They have never been transferred?

A.—Never.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

I do not think you have any right to ask me the question. However, I still have the shares, and they were never in the custody of anyone else except to bring them down here to show them.

10 Q.—Did you ever transfer to any bank or financial institution your shares in Quinlan, Robertson & Janin Limited for the purpose of financing any contracts which were obtained by any of the companies in which you were interested?

A.—I have never transferred them, no.

Q.—You are positive of that?

A.—Absolutely certain. They are still in my custody.

Q.—But were they handed over with an endorsement in blank?

A.—No.

20 Q.—Never?

A.—No.

Q.—You never transferred them as collateral security?

A.—Let me understand that thoroughly. If I transferred them I would have to endorse them, would I not?

Counsel:—In blank, yes.

A.—Well, I have never done that, to my knowledge.

30 Q.—So, you never endorsed your share certificates in blank — and I am speaking of your share certificates in Quinlan, Robertson & Janin, Limited, or A. W. Robertson, Limited — for the purpose of financing or for any other purpose?

A.—I never used A. W. Robertson, Limited, stock certificates of my own — and it would be my private business if I did. Anyway, I never used them for anything in the way of pledging them. The same remark applies to Quinlan, Robertson & Janin, Limited, I think, although I am not sure. I know the certificates originally issued to me are all with me yet.

40 Q.—Did you ever endorse in blank the share certificates which you had in A. W. Robertson, Limited?

A.—I may have for the qualifying shares for the Directors, such as Mr. Rinfret, and Mr. Perron.

Q.—I do not mean that. I mean a considerable block of shares.

A.—No, never.

Q.—You are positive of that? You are positive you never endorsed any such certificate in blank?

A.—No, I did not.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Neither in Quinlan, Robertson & Janin, Limited, or in A. W. Robertson, Limited?

A.—No.

Q.—Did Mr. Janin, to your knowledge.....

10 A.—(Interrupting). I know nothing about Mr. Janin's private affairs, or his banking account — absolutely nothing.

Q.—Did Mr. Quinlan ever transfer in blank his share certificates in A. W. Robertson, Limited?

A.—Not that I know of. The original shares were produced here, were they not? As they were issued in the books?

Counsel:—Not those of Mr. Quinlan in A. W. Robertson, Limited?

20 A.—The stock ledger was produced here.

Q.—But, that does not prove that the stock certificates were not endorsed in blank. We would have to see the certificates in order to establish that fact.

A.—It may interest you to know that stock certificates of a contracting company are not worth much as collateral security.

Q.—I do not know if this answer would apply to A. W. Robertson, Limited, or to Quinlan, Robertson & Janin, Limited, because I think a great deal of financing could be done with those share certificates.

30 A.—Well, I know better.

Q.—Did you ever see the report that was made to the Revenue Department for the Province of Ontario in reference to the Estate of the late Mr. Quinlan?

A.—I do not recollect it. I may have seen it.

Q.—Did you express any opinion with your co-executors in reference to the report that was made on the Succession Duties in the Province of Ontario?

A.—I would have to see the documents and discuss them in order to know. They would probably consult me.

40 Q.—Do you remember having seen that report, or any documents relating thereto?

A.—It is not in my mind now, but if I saw a document it might refresh my memory.

Q.—Was there any difference between the valuation of the Estate in the report made to the Succession Duties Department in the Province of Ontario and that of the Province of Quebec?

A.—I do not know.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Did you have any correspondence with the Succession Duties Office in the Province of Ontario?

A.—I do not remember that I ever had any.

10 Q.—Do you remember having done the same work in reference to the valuation of the shares of Quinlan, Robertson & Janin, Limited, and A. W. Robertson, Limited, in the Province of Ontario as you did in the Province of Quebec?

A.—I would have to see the documents and have someone discuss them with me to remember those things.

Q.—Who has those documents?

A.—I presume the Trust Company. They are charged with the detail work and bookkeeping of this Estate.

Q.—As co-executor you have free access to those documents?

A.—I presume if I asked for them I would.

20 Q.—Will you please look at the letter dated August 16th, 1928, addressed to you, and signed by Ethel Kelly, and will you tell me if you remember having received that letter?

A.—I remember having received a letter about that time.

Q.—Will you file this letter as Exhibit P-2 on Discovery?

A.—Yes.

Q.—Did you ever reply to that letter, or did the Capital Trust Company answer it?

A.—I handed my letter to the Honorable Mr. Perron and he said he would attend to it.

30 Q.—That is the letter of Mrs. Kelly?

A.—Yes.

Q.—And, he attended to it himself?

A.—Well, I do not know just what he did.

Q.—You handed it over to Mr. Perron for the purpose of attending to it?

A.—Yes.

40 Q.—In what manner were the dividends of Quinlan, Robertson & Janin and A. W. Robertson, Limited, paid? Was it by cheque, or cash?

A.—You would have to refer to the books to find that out.

Q.—In any event, your signature was necessary for the issuing of the cheques or the reception of the money which was necessary for the payment of the dividends — you had to give your signature for that purpose?

A.—If I got anything in the form of dividends I gave a voucher for it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Did you not have to sign in order to obtain the money for the payment of the dividends to the other shareholders?

A.—I signed a voucher if I got money — for whatever I got.

10 Q.—Who signed the cheques of Quinlan, Robertson and Janin, Limited?

A.—I dont know. When do you mean ? Years ago?

Counsel:—Yes, years ago.

A.—I remember Billy Quinlan used to sign, and Janin, and I do not know who else — the bookkeepers, I suppose.

Q.—And more recently who signed?

A.—Speaking from memory I should say Albert Janin and Malone, the bookkeeper.

20 Q.—You personally never signed?

A.—Never, unless it was a very exceptional matter. I am talking now of the companies Janin was in.

Q.—Did Mr. Perrault ever receive any cheques from the Amiesite Company or the Maccurban Company?

Mr. Beaulieu:—I object to the question as irrelevant.

The objection is reserved by consent of the parties in the absence of a Judge.

30

Witness:—Which Mr. Perrault?

Counsel:—Mr. J. J. Perrault.

A.—You would have to ask him. I never issued any to him.

Q.—Do you know whether he received any cheques?

A.—No, I do not know.

40 Q.—Does the same answer apply in regard to Quinlan, Robertson & Janin, Limited?

Witness:—What do you mean?

Counsel:—In reference to Mr. Perrault having received any amount from Quinlan, Robertson & Janin, Limited.

A.—He was working for them. He was getting a salary.

Q.—I mean, besides his salary?



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I do not know. He would get his travelling expenses, or any other expenses he put in a bill for, I presume.

Q.—But, as dividends?

10 A.—No, he never got a cent in dividends. How could he get anything? He never had any stock in it.

Q.—Who were present on behalf of the Maccurban Company and the Amiesite Company at the time of the transaction between yourself and W. P. Macdonald in reference to the Amiesite and the Maccurban Companies?

A.—Janin and myself.

Q.—Anyone else?

A.—I met Mr. Macdonald, and Mr. John I. Macdonald, on several occasions.

20 Q.—But, at the time of signing the documents in reference to the transfers and in reference to the transaction, Mr. Janin and yourself were present?

A.—Mr. Janin and myself were there, and my recollection is Mr. John I. Macdonald and his secretary.

Q.—Did you have anyone to advise you?

A.—I think Mr. J. L. Perron was there, but I am not positive.

30 Q.—In the statement Exhibit P-1 on discovery, which is called a financial statement of the Estate for the year ending 31st December, 1928, I read: "Steel gate re Peter Lyall, \$8,333.34." Can you give me an explanation of that item?

A.—That is money I paid to the Estate.

Q.—Where did the money come from?

A.—The documents are in the possession of the Capital Trust.

Q.—Was it in reference to steel gates which were sold, or something of the kind?

40 A.—No. I took Mr. Quinlan into a transaction I had with Lyall, and that was the result of it. The Capital Trust has copies of the memo.

Q.—Why did you use the words "Steel gate" in reference to that transaction? Was it not in reference to steel gates that were sold by your companies, or by one of the companies, in which Mr. Quinlan was interested, or by yourself and Mr. Quinlan, to Peter Lyall Company?

A.—No. It was in reference to a transaction.

Q.—Was that transaction in writing?

A.—Yes. It was a transaction between the Lyall people and myself.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—Were you acting in your quality of Executor?

A.—No.

Q.—You were acting for yourself personally?

A.—Yes. I took Mr. Quinlan into the transaction with me.

10

By Mr. Beaulieu :—

Q.—That was before Mr. Quinlan's death?

A.—Yes, a year or two before.

By Mr. Masson, continuing :—

Q.—Was that the Limited Company?

A.—No. It was a personal matter, between Mr. Quinlan,  
20 myself and another party.

Q.—Was it in reference to a contract?

A.—That Lyall had. I do not know what it was. The steel  
gates — they were all mixed up in it.

Q.—Was it a contract transferred to you by Lyall, or did  
you transfer a contract to Lyall?

A.—No, we never did that. It was a contract on which Lyall  
was bidding as the leading spirit in a company. Mr. Billy Quinlan  
is thoroughly familiar with the transaction.

30 Q.—Would you mind giving me a little more explanation  
about it?

A.—It was entirely a private transaction. It was not in any  
of our companies. It was something that I went into with Lyall,  
and took Mr. Hugh Quinlan into, and his Estate is getting the  
benefit of it. The Trust Company and others are thoroughly  
familiar with it.

Q.—Was it in reference to a contract?

A.—It was in reference to a contract that Lyall.....

Q.—(interrupting) Obtained?

40 A.—Yes: for his companies, not for us.

Q.—Do you know the amount of the contract?

Witness:—Of Lyall's contract?

Counsel:—Yes.

A.—I was not in the contract at all. I disappeared from  
the transaction, for a cash consideration.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Q.—I would like you to tell me if you know the amount of the contract?

Witness:—That Lyall got?

10

Counsel:—Yes.

A.—I think his contract would probably amount to Four and Three Quarter Million dollars, or Five Million Dollars.

Neither Mr. Quinlan nor I had any risk at all in the transaction after they got the contract.

Q.—I understand the contract was obtained in the name of  
20 the Peter Lyall Company?

A.—I do not know that. I had nothing to do with the contract when they got it.

Q.—Had Mr. Quinlan anything to do with it?

A.—Never. He never spoke to Lyall, or never saw Lyall, or had any relation with him in reference to this contract. Of course, Mr. Quinlan knew Mr. Lyall but not very well.

Q.—You never had anything to do with that contract, and neither did Mr. Quinlan? I mean so far as the execution of it was concerned?

30 A.—No, neither directly nor indirectly. Mr. Quinlan was never known in the transaction at all, only to Mr. J. L. Perron, and the other man, and myself and Lyall, who knew I took him in and divided the money with him ... at least he knew it from hearsay.

Q.—Was Mr. Quinlan sick at the time?

A.—No. Mr. Quinlan and Mr. Lyall were never friendly  
-or intimate.

Q.—What was that contract in reference to?

A.—Steel gates for the canal.

40

Q.—Building the steel gates for the canal?

A.—Yes.

Q.—The words “steel gates” referred to in that statement do not refer to implements which were used for the execution of the contract, but refer to the construction of the gates of the canal?

A.—Of course no two people express any thought in just the same way. I do not know why it was put in that way, but I do know what occurred. I do not think it is anybody's business if I did choose to stay in it.

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 Q.—I want you to understand me, and I will put the question to you squarely. Is it not true that one of your companies, or yourself and Mr. Quinlan, were the owners of certain gates which were to be used as implements or instruments for the execution of certain work, and that the Peter Lyall Company having to execute a contract purchased those steel gates from you, or from Mr. Quinlan, or from one of your companies and that the proceeds of that sale were such that Mr. Quinlan's share was \$8333.34?

A.—You are absolutely wrong — absolutely and unqualifiedly wrong.

Q.—If I am wrong on that, the source of the \$8333.34 as Mr. Quinlan's share coming from the transaction.....

A.—(interrupting) Which I personally had.....

20 Q.—(interrupting) And about which you have given some explanation a moment ago.

A.—Neither Hugh Quinlan or myself, or anyone else associated with the transaction contributed one dollar towards the execution of the contract, nor did we supply any materials, or plant, or machinery, or anything else associated with the execution of it; and Mr. Hugh Quinlan never saw the gates, or never knew anything about them and I only saw them as a matter of curiosity from time to time when I went on my own mission along the canal.

30 Q.—Was that in connection with the Welland Canal?

A.—Yes.

Q.—And, I suppose, all the shares were equal?

Witness:—How do you mean, equal?

Counsel:—\$8333.34 each?

A.—I got the same out of it as Mr. Quinlan got. It was divided three ways — \$33,000 odd.

40 Q.—\$8333.34, you mean?

A.—No. He got \$8000 more some time just before Lyall's failure.

Q.—What was the total amount?

A.—\$100,000, divided three ways — \$33,333 each.

Q.—Did you ever have certain rights or concessions to take sand in Lake Erie?

Witness:—You mean myself personally?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Counsel:—Yourself and Mr. Quinlan.

Mr. Beaulieu:—I object to the question as irrelevant.

10 The objection is reserved by consent of the parties in the absence of a Judge.

A.—Some years ago a friend of ours had the rights. Mr. Quinlan, Mr. Doheny, Mr. M. J. O'Brien, and I personally, went in with him. The rights were thrown open — abolished — by the Ontario Government. It was only a privilege from the Ontario Government to take sand at Port Maitland under a lease. Subsequently the Government cancelled all those leases, and let  
20 everybody go in on the property. The property was no good anyway, so we did not lose anything only the money we put in.

I think Mr. Quinlan and I paid some moneys for legal fees to see if we could not get the rights back, but we never got them, and the matter was dropped. That would be in A. W. Robertson, Limited. I remember engaging a lawyer in Toronto to pursue the matter, but we never got anything out of it.

30 Q.—Were you ever interested in the National Sand and Gravel, Limited?

A.—Yes: A. W. Robertson, Limited, was, and I represented them as a shareholder.

Q.—Is that company still in existence?

A.—I am not sure that it is in existence under that name.

Q.—Are you still interested in it?

A.—No, we sold our shares.

Q.—Before Mr. Quinlan's death?

40 lan A.—No. About a year ago. I made \$25,000 for the Quinlan Estate doing it, with my own money.

Q.—Was that company taking sand on your concession?

A.—No.

Q.—Did you ever transfer your concession on Lake Erie to the National Sand & Gravel, Limited?

A.—I have just told you we lost it. How could I transfer it if I lost it?

Q.—You did not make a transfer of any concession to the National Sand & Gravel Company?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

10 A.—A. W. Robertson, Limited, was a shareholder of the National Sand & Material Company, and I represented them as having one share. It was I who got them into the business, because my friends were operating it. Those friends of mine — the National Sand and Material Company — had the privilege of getting gravel and sand in Lake Ontario, the same as anybody else who paid a royalty.

Q.—Since the abolishment of the leases and privileges by the Government?

A.—Yes. Prior to that Mr. Quinlan, Mr. Doheny, Mr. O'Brien and myself were in the former Port Maitland. We had no interest at all in the National Sand & Material Company.

20 Do you want to know about the National Sand and Material Company? The stock transaction? I remember I got A. W. Robertson, Limited, to cooperate with me, and I took the matter up with Mr. Perron, but he refused to risk the money, because it was Estate money. I went to Ambrose O'Brien, and we boosted the price, and A. W. Robertson, Limited, got the benefit of it, and the Quinlan Estate got \$25,000 of it. Ambrose O'Brien and I agreed to put up a quarter of a million dollars, and to finance \$450,000 more.

30 Mr. Perron knows all about it, because I went to him to see if we could not use the money of A. W. Robertson, Limited, to finance it, and he said: "No, you cannot risk the money in a venture of that character. Risk your own money". I did, and won.

Q.—And, the money was paid to the Trust Company, I suppose?

A.—Not yet. It is in A. W. Robertson, Limited, in liquidation.

40 Q.—At page 112 of your deposition you said in reply to Mr. Tanner:

" I am not sure the will does not say he wants his contracts wound up, or something to that effect. I know he had a will once with that in it."

Will you look at the will I now show you, and tell me if it is the will to which you referred at page 112 of your deposition on discovery?

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—I meant to say that he had an agreement with me in Quinlan & Robertson, Limited, that if anything happened to one of us the other would take over the business.

10 Q.—But, you were speaking about a will which you said you thought existed?

A.—That was my impression.

Q.—Is this the will to which you refer?

A.—I thought it was in this, because I had often discussed the proposition with him.

Q.—Is this the will to which you referred in your answer?

A.—This is the will I thought it was in.

Q.—Will you file this will as Exhibit P-3 on Discovery?

A.—Yes.

20 Q.—You said in your examination that Billy Quinlan entered in a book the bonds which were given back to Mr. Quinlan. Do you remember in what kind of a book those entries were made?

A.—Yes. He had a little book, about  $\frac{3}{8}$  or half an inch thick, and he also had a long book.

You asked me for a list of the bond numbers that were returned. I have it here.

30 Q.—You say Mr. Billy Quinlan had two books?

A.—There were Mr. Hugh Quinlan's property, I presume.

Q.—He had two books, as you said?

A.—A small book and a larger book.

Q.—Where are those books today?

A.—Mr. Billy Quinlan had them not long ago.

Q.—Do you know if they are in the possession of the Trust Company?

A.—I do not think they are.

40 Q.—Were those books found among the documents which belonged to the Estate?

A.—No.

Q.—You now exhibit to me four documents, the first entitled "Records of Deposits on Contracts with Department of Public Works, Ottawa; the second, in reference to the Dominion of Canada War Bonds, property of Hugh Quinlan, deposited with the Department of Public Works, at Ottawa, for East Pier Port Maitland, Ontario; the third, in reference to Dominion of Canada War Bonds, property of Hugh Quinlan, deposited with the

*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

Department of Railways and Canals; the fourth, in reference to Dominion of Canada War Bonds, property of Hugh Quinlan, deposited with Department of Railways and Canals?

A.—Yes.

10 Q.—Will you file these documents as Exhibits P-4, P-5, P-6 and P-7 on discovery?

A.—Yes.

Q.—At pages 82 and 83 of your examination you were asked to file a copy of the reports which were sent to the Succession Duties Office in Montreal concerning the assets of the Estate, and you said you would take the matter up by correspondence with your co-executor, the Capital Trust Company. Have you communicated with them in reference to that report?

20 A.—I forgot it. I went up there for those other documents, but I forgot to ask for this.

Q.—Would you mind asking them for it?

A.—Yes, I will.

You also wanted to know something about Crookston properties. I have the dates of registration of the different deeds.

30 One of the allegations is that I fraudulently concealed the Crookston Quarries. The Gibson Quarry property, the only property which we operated for some years, was bought in June, 1925, by A. W. Robertson, Limited, and registered under deed No. 9061 on June 9th, 1925.

Q.—Where?

A.—In Belleville, Hastings County.

40 The other Crookston quarry properties were registered, according to my information (and the only man from whom we could get reliable information) under date August 5th, 1927, title No. 9318; and the other on October 5th, 1927, registered under title No. 9322. This information is given to us by a solicitor who examined them and reported them to us. Of course I did not go there to examine them, and I do not know the individual properties myself.

Q.—Have you any objection to telling me the name of the person who gave you this information?



*Angus W. Robertson (for Plaintiff on Discovery) Ex. in chief.*

A.—Collins and Cushing forwarded us copies of deeds, which are certified by the Official Registrar for the County. Mr. Leamy got the information.

10 The blue property is the only one that we operated recently at all. The other properties were abandoned.

Q.—Do you know the address of Collins & Cushing?

A.—They are solicitors in Belleville, Ontario.

Q.—Have you any objection to filing the document you now show me?

20 A.—I have not a copy of it. I have just read it into the deposition.

Q.—I understand that since the death of Mr. Quinlan all your contracts have been taken in the name of Robertson & Janin Contracting Company?

A.—No, that is not the case.

Q.—Most of the contracts were taken by that company?

30 A.—It is a matter of record. We are taking contracts in the name of Robertson & Janin Contracting Company, but, of course, I am personally interested in other contracting companies.

And the further examination of the witness is continued sine die.

And further for the present deponent saith not.

J. H. Kenehan,  
Official Court Reporter.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

DEPOSITION OF EMMANUEL LUDGER PARENT

10 On this fifth day of February, nineteen hundred and thirty, personally came and appeared: Emmanuel Ludger Parent of the City of Ottawa, in the Province of Ontario, accountant, a witness examined on behalf of the Plaintiffs, on discovery, who, after being duly sworn on the Holy Evangelists, doth depose and say:-

Examined by Mr. Masson, Attorney for the Plaintiffs:—

Q.—What is your address?

A.—271 Benson, Ottawa.

Q.—What is your occupation?

20 A.—Accountant as a trade.

Q.—Are you a licenced accountant?

A.—Yes, for the Province of Ontario.

Q.—You are auditor at the same time?

A.—Yes.

Q.—Who are you working for?

A.—For the Capital Trust Corporation.

Q.—One of the Defendants in this case?

A.—Yes, sir.

Q.—Since how long?

30 A.—Since June 1920.

Q.—Are you in charge of any special department?

A.—The Estates Department.

Q.—In your capacity as such, are you attending, or have you been dealing with the estate of the late Hugh Quinlan?

A.—Yes.

Q.—Did any one else in your firm deal with that Estate?

A.—The manager and the clerk doing the book-keeping?

Q.—Who is the clerk doing the book-keeping?

40 A.—There is quite a number of them, it depends in what department.

Q.—Nearly all your clerks did some work in reference to the Estate?

A.—Not all.

Q.—Would you mind mention the names of those who had something to do with the estate — who is keeping the Cash-Book of the Estate?

A.—There is no such thing as a Cash Book?

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—What kind of books have you got to keep the receipts of the Estate?

A.—The Estate's General Ledger, it is a loose-leaf book.

Q.—What do you enter into that book?

10 A.—It contains all transactions in connection with all the estates.

Q.—All the estates or a particular estate?

A.—There is an account for each estate in the book.

Q.—And in that account for each estate, in that book, are entered the receipts of the Estate?

A.—Yes, under separate accounts.

Q.—You have a special account for the Hugh Quinlan Estate in which are entered all receipts?

A.—All receipts and disbursements.

20 Q.—Is that the only book you have?

A.—We have a special ledger.

Q.—What is the nature of that special ledger?

A.—The book speaks for itself.

By Mr. Campbell, K.C.:—

Q.—You have it here?

30 A.—Yes, I have it here.

By Mr. Masson, (Continuing):—

Q.—Did you bring with you your correspondence.....

A.—(Interrupting) I have a file of it.....

Q.—(interrupting) exchanged with the Succession Duties' Office at Quebec or Montreal?

A.—I have copies of letters.

40 Q.—Have you got them?

A.—Yes, certified copies.

Q.—Would you mind exhibit them to me?

A.—That's for Ontario.

Q.—I would like to have the Quebec.

You are exhibiting to me a file containing certified copies of letters in your file No 401, Quebec Succession Duties?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Is that file an exact copy of all documents contained in the original file?

A.—Except the correspondence exchanged between ourselves and our solicitor.

10 Q.—What do you mean by solicitor?

A.—The solicitor for the estate.

Q.—In this case?

A.—Not in this case, of the estate.

Q.—So that, in this file, are not contained the letters sent to you by the solicitor of the estate?

A.—No.

Q.—The original of those letters sent to your firm or sent by you to your solicitor of the Estate are in the original file?

A.—Yes, and there are no copies of them neither.

20 Q.—How many letters of that kind are there?

A.—May be fifteen or twenty.

Q.—Do you mean letters received or sent by you?

A.—Altogether; some are not very important letters.

Q.—But some are very important?

A.—Well, I would not say that.

Q.—Insofar as the estate is concerned?

A.—I don't know.

30 Mr. Campbell:—That is a matter of opinion.

Mr. Masson (Continuing)

Q.—So far as you can judge yourself?

A.—It is hard to say whether they are important or not.

Q.—They are referring to what?

A.—They are referring to matters of Succession duties for the Province of Quebec, in general.

40 Q.—They are containing legal advices on the duties which were supposed to be paid to the Succession Duties for the Province of Quebec by the Estate?

Objected, by Mr. Campbell, K.C., to any question having any bearing on the communications between the Capital Trust and its legal advisers on the ground that they are privileged and not admissible in evidence.

Objection taken under reserve in the absence of a Judge.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

(The previous question is read to the witness).

A.—I don't know.

10 Q.—Who can tell us?

Mr. Campbell:—The letters could tell you if you were entitled to see them.

By Mr. Masson:—

Q.—Is this your answer?

A.—Yes.

20 Q.—Are the letters contained in this file by order of date?

A.—Yes. I am pretty sure, although I did not fix them myself.

Q.—It seems that this file contains all the letters which have been received by your estate from the office of the Succession Duties for the Province of Quebec?

30 A.—I could not swear to that. I did not make the copies myself. I must explain that we have several files, hundreds of files, and one may have gone on the wrong file. We made a rush copy of Succession Duties' file, and to make sure that some letters did not go on another file, I would have to go through all these files. We have no objection to find that, however; if you think one letter is missing that you need, I would be very pleased to get it for you.

Q.—You are keeping a file for every company in which the estate was interested and it may be that one letter that should have gone in that file that you are exhibiting to me re succession duties, might have been filed in another file, that is what you mean?

40 A.—Yes, one or more.

Q.—Would you mind file this as exhibit?

Counsel for the Defendant, Capital Trust, states that his client has no objection to let the attorneys of Plaintiff examine their ledger, files of correspondence and statements exchanged with the Quebec Succession Duties, excluding however all correspondence exchanged with the Estate's Solicitors, so that they may select from that file such documents as they desire to have produced as exhibit P-C-5.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Will you please file these extracts that we will select as exhibit P-C-5?

A.—Yes.

10 (Copy of letter of December 31st, letter to J. A. Lazure signed by L. E. Parent is missing — endeavour will be made to have it produced)

Q.—Besides the file of correspondence which has been exchanged with the Succession Duties' Office, did you make any trip or did you have any interviews or meetings with the officers of the Succession Duties' Office?

A.—Yes.

Q.—With whom?

20 A.—I don't remember them all; I saw Mr. Lazure.

Q.—How many interviews did you have with them?

A.—Four or five may be.

Q.—It was in reference to what?

A.—For general matters.

Q.—Did you discuss any particular subject?

A.—Practically all items that were not listed on the market; practically all values that were not on the market.

Q.—Besides that, with what officer did you discuss it?

A.—Mr. Begin.

30 Q.—In Montreal?

A.—He is in Quebec, I think.

Q.—And besides that?

A.—That's all I can remember; there may be some other clerks, but I don't remember.

Q.—Were you meeting these gentlemen in Montreal or in Quebec?

A.—In Montreal.

Q.—Were you alone representing the estate when you met those officers of the Succession Duties' Office?

40 A.—Sometimes I was alone, I think a few times Dr. Connelly or Mr. Robertson was there, and probably the solicitor of the estate.

Q.—I understand that Mr. Robertson took a part in those interviews with the Succession Duties officers in reference to the estate?

A.—Not all.

Q.—A few of them?

A.—A few of them.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—And you were making reports to him in respect to the succession dues of the estate?

A.—Yes.

10 Q.—And Mr. Robertson was quite interested in the work you were doing with the Succession Duties officers?

A.—I don't know; I presume so. I don't know that.

Q.—He was enquiring about what you were doing in reference to the estate?

—In regard to succession duties?

—Yes.

A.—We kept him posted all the time.

20 Q.—As a matter of fact, he has been posted all the time as to all matters in reference to the Succession duties of the estate?

A.—All matters of importance.

Q.—Did any one else accompany you?

A.—I mentioned Dr. Connolly; I am not quite sure..... I did not take note of that. I don't remember if Dr. Connolly was with me.

Q.—Did Mr. Begin or Mr. Lazure go to Ottawa in reference to the estate?

A.—No.

30 Q.—And what was the most important subject that you discussed with Mr. Begin and Mr. Lazure?

A.—The two big items were A. W. Robertson Limited and Quinlan, Robertson Limited.

Q.—How long did the discussion on that particular subject last?

A.—Several months.

Q.—It ended, I suppose, in nineteen hundred and twenty-eight?

A.—My file shows the exact date of the valuation.

40 Q.—So that the interviews and discussions between your firm and the Succession Duties' Officers lasted from the time of your appointment as executor up to the time when the duties and the dues were determined and fixed between yourselves and the officers?

A.—From the time we filed the first report.

Q.—The correspondence as shown in file P-C-5 shows the time during which the discussions and interviews lasted between yourselves, your firm, and the Succession Duties' office?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—And Mr. Robertson was quite posted on all that?

A.—On all important matters.

10 Q.—Do you consider the valuation of the shares of Quinlan Robertson & Janin and A. W. Robertson Ltd as a matter of importance?

A.—Yes.

Q.—So that he was posted on that also?

A.—Yes.

Q.—Who was the one that was posting Mr. Robertson in reference to your interviews above related?

A.—I did, several times.

Q.—Did Dr. Connolly do something in that regard?

A.—I don't remember if Dr. Connolly had much to do with Succession duties; I don't know.

20 Q.—What was the particular subject that Dr. Connolly was dealing with in connection with the estate?

A.—There were many things, we had many interviews.

Q.—He was not attending to the same work as yours?

A.—No.

By Mr. Campbell. K.C.:—

Q.—What is Dr. Connolly's position?

30 A.—General manager.

By Mr. Masson (Continuing)

Q.—He was supervising your work?

A.—Yes, he used to consult me or I used to consult him on different matters.

Q.—Did Dr. Connolly had to be consulted in reference to the particular subjects he was dealing with in connection with the estate?

40 A.—Not for succession duties.

Q.—For something else?

A.—Yes, several times.

Q.—Could you mention those particular subjects which Dr. Connolly had to deal with?

A.—Important sale of assets.

Q.—What important sale of assets took place in reference to the estate?

A.—There are quite a number; I will have to look through my books.



*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Did Mr. Robertson write or consult your firm in reference to the estate?

A.—No, except that I sent him copies once a while on different matters.

10 Q.—So that when you were writing to the officers of Succession Duties or in reference to other matters, you were sending copies of the letters received or sent to Mr. Robertson?

A.—Not all the time.

Q.—But for the important matters?

A.—Yes.

Q.—I understand that this took place in reference to the valuation of the shares of the Company with the Succession Duties' office?

A.—Correspondence or interviews?

20 Q.—Correspondence?

A.—Oh, yes.

Q.—You sent him copies of your correspondence in reference to Succession Duties and in reference to the valuation of the shares?

A.—As I said before, not all, but quite a number.

By Mr. Campbell, K.C.:—

Q.—As will appear in the files?

30 A.—Yes, I could not remember them all.

By Mr. Masson (Continuing)

Q.—Insofar as the administration of the estate was concerned, did you act alone or if you had Mr. Robertson acting with your firm all the time?

A.—The cheques had to be countersigned by him.

Q.—What about the receipts, the money received?

40 A.—It came direct to us and it was deposited direct in a special bank account for the estate.

Q.—And all the money that you received belonging to the estate has been deposited?

A.—In that special bank account, in the name of the executors.

Q.—And all monies paid out was drawn on that special account?

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief:*

A.—Yes; you see, for instance, for the administration, dividend cheques or coupons to cash, I would not advise him of that, we kept a record of it but once the money was in the bank, it cannot be drawn without him, without his signature.

10 Q.—Did you bring with you your bank account?

A.—No, but I could get that for you. You know the way they keep their books, it is on loose-leaves, they don't give pass-books; it is a copy on loose-leaves. I have it in Ottawa.

Q.—You could get it?

A.—Yes, I could get it any time.

Q.—You did file as exhibit C-2 with your plea a statement of securities found in a safety box No. 158 of the Bank of Toronto vault, corner McGill and St. James street, dated July 9th 1927. Will you look at that particular exhibit and tell me when it has  
20 been drafted?

Mr. Campbell:—Do you mean this particular copy?

Mr. Masson:—I mean the original.

By Mr. Campbell:—

Q.—When was the original memorandum prepared of which  
this is a copy?

30 A.—It would be on the date mentioned.

Q.—That is the date mentioned?

A.—Yes.

By Mr. Masson (Continuing).

Q.—Will you explain how you proceeded when you went to open that safety deposit box No. 158?

40 A.—It was opened in presence of Dr. Connolly, Mr. A. W. Robertson, L. M. Leamy and a clerk of the bank; I don't remember his name — and myself. — On the 9th of July 1927.

Q.—You were present?

A.—Yes, I was present; Mr. Robertson stayed for a while; then he left and Mr. Leamy remained.

Q.—How long did Mr. Robertson stay there?

A.—I could not remember; may be ten or fifteen minutes; may be half an hour.

Q.—How long did that last?

A.—A couple of hours at least.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—And Mr. Robertson has been there for fifteen minutes?

A.—Fifteen minutes or half an hour; I am not quite sure.

10 All the other people were there and in the presence of persons remaining, I took every item of securities and listed them on a piece of paper and had them checked and signed by Mr. Leamy, Dr. Connolly and myself.

Q.—This has not been copied from some other documents which have been handed over to you?

A.—No.

Q.—You are positive of that?

A.—I am sure.

Q.—What is the meaning of the initials “B.L.” and “P.M.”?

A.—That is the party who typed that from an office file.

20 By Mr. Campbell, K.C.:—

Q.—It means copied by your office clerk?

A.—“B.L.” is a junior clerk.

By Mr. Masson: —

Q.—What is his name?

A.—I think it is Larose, I don't know for sure.

Q.—And “P.M.” at the bottom?

30 A.—I believe this is Paul E. MacKay.

Q.—Et le petit “D” à côté?

R.—Dubé.

Q.—Did Mr. Leamy have a list of securities when you opened that box?

A.—If I gave him one?

Q.—I want to know if he had one before the box was opened?

A.—Oh, no.

Q.—You are positive about that?

A.—Not that I know of.

40 Q.—You were present?

A.—He did not show me any.

Q.—You are the one that took a note of all securities in the box?

A.—Yes, sir.

Q.—You are the one that wrote the list and checked up the securities that were in the box?

A.—Yes, with Mr. Leamy and those present there.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Only one list has been drafted?

—At the time?

10 —Yes.

A.—Yes.

Q.—You were the one who drafted that list?

A.—Yes.

Q.—And you are positive about what you are saying now?

A.—Quite sure.

Q.—Well, are you sure or not?

A.—Oh, yes. It would be better if I could see my list, I would be more positive if you would allow me to see the list.

20 Q.—You are positive it was not copied from a list that had been handed over to you?

A.—Yes.

Q.—What is the meaning of these words: “These are on Mr. Leamy’s list” as appears on the first sheet of exhibit C-2, and what is the meaning of “October 29th, 1926”?

A.—I don’t remember; I think I have a memo that would explain that, if you could give me time.

Q.—Would you mind explain that to me?

30 A.—He may have had a memo of that particular item. Mr. Leamy may have had a memo of this particular item of this \$15,000 bonds.

Q.—You are not sure?

A.—It must have been, because if I marked “memo” it was because he had a record of it. I don’t remember now, you know it is over two years now. Probably it would be to explain that Mr. Leamy had a record of these.

Q.—Did he have that record before opening the box or did he make it after the box had been opened?

40 A.—I don’t remember.

Q.—You are positive that those items were not copied from a memorandum given to you by Mr. Leamy?

—All the list, you mean?

—Yes.

A.—I am sure that list has not been copied from Mr. Leamy’s list.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Could you swear that a part of it has been copied from his list?

A.—I don't remember about that item.

10 Q.—For the moment you cannot give any explanation for those words which I just mentioned to you?

A.—I don't remember.

Q.—You don't know the reason why those words were put there?

A.—No.

Q.—You cannot give us an explanation about these words: "These are on Mr. Leamy's list"?

A.—I don't remember.

Q.—And you cannot give us an explanation about the words "October 29th 1926"?

20 A.—No.

Q.—You cannot?

A.—No.

Q.—But, if the words "These are on Mr. Leamy's list" have been put there, it is evident for you that Mr. Leamy had a list of these at that time?

A.—Not of all the bonds.

Q.—But about those particular bonds which are listed on the first page of exhibit C-2?

A.—He might have had.

30 Q.—Does it not appear to you that the only explanation for those words being on page 1, is that Mr. Leamy had, at the time of opening the box, or before, a list of those items which are mentioned there and that that list has been handed to you at the time?

A.—It looks like it, for that particular item.

Q.—It looks like that for this particular item?

A.—Yes.

Q.—That particular item of \$15,000 bonds which are referred to?

A.—Yes.

40 Q.—I would like you to make a little effort and try to tell me whether the old list has not been drafted before the opening of the box and that when you opened that box, the only thing you had to do was to check the securities in the box with those mentioned on the list?

A.—No, sir.

Q.—You are sure of that?

A.—Sure.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—And you are sure that the list filed as exhibit C-2 is not one which has been copied from a list, the original of which had not been made by you?

A.—I am sure of that.

10 Q.—You are sure?

A.—Yes.

Q.—Would you mind give me an explanation in reference to those words which I read on page 2: “Enquire of this to A. H. Quinlan”; what do you mean by that?

A.—That’s my note, they are notes I put on to make inquiries?

Q.—Inquiries to Mr. Quinlan?

A.—Yes, it is to young Harry?

Q.—This is a special note you made yourself?

20 A.—Yes, it looks to me the copy, this is supposed to be an extra copy of the statement I made at the time and I put on that pencil note.

Q.—Are you positive about that, that this little note was put by you in order to inquire about that special certificate?

A.—I would need to see my copy.

By Mr. Campbell, K.C.:—

Q.—Where is the original of that list?

30 A.—It is either in Ottawa ..... I brought some files here.

Q.—You better have reference to that original list?

A.—I will.

By Mr. Masson (Continuing)

Q.—Do you know a man by the name of H. Quinlan?

A.—I met two of them, one I know under the name of “Billy” and the other, I don’t remember his name.

Q.—Were they present when the box was opened?

40 A.—I don’t remember; no, I gave you the names of the persons who were present; I mentioned them on the memo at the time.

Q.—Who brought the key to open that box?

A.—I think it was sent, I think Mrs. Quinlan sent it to Dr. Connolly, the widow of Mr. Quinlan.

Q.—Did you make two separate lists or if you made only one?

A.—I will have to look it up; I think I made only one. There were some copies made after.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—All the securities found in that box, have they been listed on one list only or on two lists which you made and which has been signed by the parties present?

10 A.—I don't remember; I will have to look it up. If I find the original list, I have no objection to show it to you.

Q.—You wont forget to give us an explanation about the date "October 29th, 1926" on page one?

A.—That may be the date of the certificate.

Q.—Why did you put down the date of that particular certificate?

A.—I don't remember; that may be the date of the certificate.

Q.—After the list was made, did Mr. Robertson inquire about the contents of that box?

20 A.—I don't remember.

Q.—Have you got in your possession any correspondence in reference, correspondence with Mr. Robertson in reference to the contents of that box?

A.—I could not tell you off hand. The file is not very big, I can look it up.

Q.—When Mr. Robertson left on that particular day when the box was opened, you had not finished to check the contents of the box?

A.—No.

30 Q.—You were just starting?

A.—He was there about fifteen or twenty minutes, may be half an hour. He left Mr. Leamy to take his place.

Q.—Mr. Leamy was not an executor?

A.—No, but he left him.

By Mr. Campbell, K.C.:—

Q.—He was the confidential book-keeper of the firm?

40 A.—Yes.

Mr. Masson (Continuing)

Q.—Of what firm?

A.—A. W. Robertson Company Limited.

Mr. Campbell:—A. W. Robertson Limited, there is no Company limited.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—You say in paragraph 65 of your plea that you have been guided in all legal questions by the legal adviser and advocate of the Estate named in the will, as Defendant was bound and entitled to do, as said Defendant was bound and entitled to do.

10

And you are moreover saying in paragraphs 63 and 64 that those advices to which refers paragraph 65 were in reference with the shares of the late Mr. Hugh Quinlan in Quinlan Robertson & Janin Limited and in the Amiesite Asphalt Limited.

Objected by Mr. Campbell, K.C., to the question as being an inaccurate statement of the effect of the pleadings.

Question withdrawn.

20

Q.—Will you please read paragraphs 63, 64 & 65 of the Plea of the Capital Trust?

A.—Yes.

(Witness reads the paragraphs)

Q.—And read besides paragraph 58 of the Plea?

(Witness reads paragraph 58).

30

Q.—Did you read that paragraph?

A.—Yes.

Q.—Were the legal advices to which refers paragraph 58 given verbally or in writing?

A.—I think it is verbally; I had not much to do with this case.

Q.—Who had?

A.—I think Dr. Connolly.

40 Q.—So that if we want any information on that subject, we must question Dr. Connolly?

A.—Yes; I may have been present myself but Dr. Connolly had more to do with it than I.

Q.—Were you present or not?

A.—On one or two occasions, I might have been present once or twice.

Q.—When the conversations took place, it was with Mr. Peron?

A.—Yes.



*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Did the legal adviser of the estate go to Ottawa or did the interviews take place in Montreal in reference to that particular subject?

A.—In Montreal.

10 Q.—Who was the one who came from Ottawa to Montreal generally in reference to the affairs of the estate?

A.—Dr. Connolly and myself; both, sometimes, together.

Q.—How often a month were you coming?

A.—Oh, I don't remember. At the beginning you mean?

Q.—When did you come for the last time besides to-day?

—For the Quinlan Estate?

—Or any matter.

20

Mr. Campbell:—They have a Montreal office.

A.—I don't remember.

Q.—Were you coming very often every month?

A.—Yes; the last time was about a month ago.

Q.—Did Dr. Connolly come about the same number of times as you did?

A.—Lately he has been sick; he is sick since last Spring.

Q.—He did not come to Montreal since last Spring?

30

A.—He did not come as often since last Spring.

Q.—When did he come the last time?

A.—I don't know.

Q.—Approximately?

A.—I could not tell you because he did not tell me.

Q.—Is he attending to his work in Ottawa just the same?

A.—Not the whole day.

Q.—But a part of the day?

A.—He goes to the office nearly every day. I don't say he is coming every day, he comes in once a while for certain hours.

40

Q.—Is he answering the telephone?

A.—I think so; his office is apart from mine.

Q.—In reference to this examination of yours, on discovery, did you see Dr. Connolly?

A.—Yes.

Q.—When?

A.—I saw him for the last time Sunday.

Q.—You spoke to him?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—At the office?

A.—Yes.

Q.—So that you are positive that the legal advice to which  
10 refers paragraph 58 of your plea has been given verbally and not  
in writing?

A.—I will have to look up the file; I don't remember. I  
know we had correspondence with him, but I am not quite sure  
if he gave legal advices in writing.

Q.—So that correspondence has been exchanged between your  
firm and the legal adviser of your firm in reference to the facts  
mentioned in paragraph 58 of your plea?

A.—Of the Estate?

Q.—Yes, I mean the Honourable Mr. Perron.

A.—Yes.

20

By Mr. Campbell, K.C.:—

Q.—Do you know if there was any correspondence on that  
particular subject?

A.—I think there is one item.

By Mr. Masson (Continuing)

Q.—Received from Mr. Perron?

30

A.—No, sent from us; I am not quite sure; I will have to look  
that up.

Q.—Would you mind look up the file on that particular point  
and bring with you all the correspondence exchanged between  
your firm, Mr. Robertson and the legal adviser, that is the Ho-  
nourable Mr. Perron.

Mr. Campbell:—Re what?

40

Mr. Masson:—Re paragraph 58.

A.—I will look up up and hand the correspondence to our  
Attorney, subject to any order as the Court may give.

Q.—Do you know all the shareholders of the Capital Trust?

A.—There are about 700 or 800 of them.

Q.—You know that Mr. Quinlan was a Shareholder of the  
Capital Trust at the time of his death?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—At the time of Mr. Quinlan's death, were the shares fully paid up by all the shareholders of the Company or if only part of the said shares had been paid?

10 A.—That's not my department; I don't remember that at all. I don't look after that.

Q.—Who is attending to that?

A.—The Chief Accountant, I think.

Q.—Is it to your knowledge that the shares of the Capital Trust, at the time of Mr. Quinlan's death, had not been fully paid up by the shareholders of the Company, that only part of such shares had been paid and there were calls to be made?

A.—Do you speak generally?

Q.—Yes.

20 Mr. Campbell, K.C.:—Objected to this question as illegal and irrelevant.

The objection is reserved in the absence of the Judge.

A.—I don't look after those details at all; I don't know the details of that department at all. I know that statements are issued every year, showing shares fully paid up.

30 Q.—If you are looking at exhibit No. 3, (3), on page 2, we read that on June 26th 1927 you considered as liabilities of the estate the balance of \$4,230.17 which was due on One hundred shares of the stock of the Capital Trust. I understand that the Company was paid by the Estate of that balance of \$4,230.17, is it not?

A.—\$4,230.17 is right.

Q.—This was paid?

A.—Yes.

Q.—When?

A.—On the 16th of August, 1927.

40 Q.—Mr. Robertson was a shareholder of the Capital Trust at the same time?

A.—I presume so.

Q.—Do you know it?

A.—I presume so, I am not quite sure.

Q.—Is it not a fact that all the shareholders of the Capital Trust had paid only a part of their shares in the Capital Trust?

A.—I don't understand you.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Mr. Campbell:—

Q.—Mr. Masson is asking you if all the other shareholders had only paid a part of their shares.

10 A.—Oh no, the majority had been all paid in full.

Mr. Masson (Continuing)

Q.—Could you ascertain that?

A.—Yes.

Q.—Would you mind look in the By-laws or resolutions of the Company to make that clear.

A.—Our Financial statement will show the total fully paid up.

20 Q.—Was Mr. Hugh Quinlan the only one whose stock had not been fully paid?

A.—I don't know, this is not my department. I don't think he would be the only one.

Q.—Would you mind look up and find out if there was a resolution or a by-law in reference to a call to be made on unpaid stock.

Mr. Campbell, K.C.:—Objected to the question as illegal and irrelevant.

30

Objection reserved.

A.—I will look them up, subject to the objection of my Attorney.

Q.—Will you please file as exhibit P-C-7 a certified copy of the financial statement of the estate for the year ending December 31st, 1928 and prepared by P. E. Shannon & Son Co?

40 A.—I identify as exhibit P-C-7 a certified copy of the report of P. C. Shannon & Son Co addressed to the executors of the Estate of the late Hugh Quinlan under date, February 18th, 1929, being the financial statement of the Estate Hugh Quinlan for the year ending December 31st, 1928.

This document has already been filed as exhibit P-1 on Discovery of the Defendant Robertson and same is to be considered as being proof for the Capital Trust.

Q.—Would you mind exhibit to me the ledger of the estate?

A.—I do not mind, and here it is.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Would you mind exhibit to me your file in reference to the resignation of A. W. Robertson?

10 Mr. Campbell, K.C.:—I object to the question as illegal and irrelevant; it does not arise out of the pleadings.

Q.—Did you make a declaration to the Succession Duties' Office in all the provinces of Canada or only for the Province of Quebec and the province of Ontario?

A.—We made a report where assets were considered only.

Q.—Did you make any declaration to the Succession Duties' Office for the Province of Nova-Scotia?

A.—I don't think so. If there were any assets there, they were of no value, as far as I can remember.

20 Q.—Would you mind tell me the meaning of this "Succession Duties, Province of Nova Scotia".

A.—They may..... I don't remember.

Q.—"Succession Duties, 401-C", will you look it up?

A.—Where is the page? That may be the file.

Q.—You say that when there is a file, you mention it?

A.—I don't remember anything being in Nova Scotia.

Q.—Would you mind show me the page or A. W. Robertson personally.

30 —His legal fees?

—For the amounts which you paid.

Mr. Campbell:—The payments made by A. W. Robertson to the Estate.

40 Mr. Masson (Continuing)

Q.—I understand that all payments made to the Estate are entered in this ledger under the particular name for which the amount has been paid?

A.—Yes.

Q.—So that for the shares of certain stock, it is entered under the name of the Company?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

10 Q.—In regard to your letter about payments to the Province of Nova-Scotia, I find in my Quebec Succession Duties' file one letter dated December 27th 1928 addressed to the Provincial Treasurer of the Province of Nova Scotia in regard to Dominion Iron & Steel Company shares, and the shares of Dominion Steel Corporation; the head office of both these companies are in Nova-Scotia.

A.—We asked for a release of any claim attached to those.

Q.—Could you tell me to what refers those numbers for the following columns of your ledger "20" under the name Dominion Iron & Steel.

A.—That is our Cash-book number, the Company's General Cash-book.

Q.—The numbers under "Folio" are the same?

20 A.—This is the cash book number, I don't do the details of all the books.

Q.—Who are the accountants and auditors of the Capital Trust, generally? Are they P. C. Shannon & Son Co?

A.—No.

Mr. Campbell:—Who are your own auditors?

A.—Of the Company?

Q.—Yes.

30 A.—It is not Shannon & Son Co., it is Cunningham.

By Mr. Masson (Continuing)

Q.—How is it that P. C. Shannon & Son Co. are those who are making the audits, who look after the books of the estate Hugh Quinlan?

40 A.—It is because we knew they were familiar with another estate; he is auditing another estate and being also connected with Mr. Quinlan, we thought he would be the right man to pick for this work.

Q.—Is it to your knowledge that P. C. Shannon was the Company's auditor and is still the auditor of A. W. Robertson?

A.—I saw many statements of his in different cases.

By Mr. Campbell, K.C.:—

Q.—In which Mr. Quinlan was interested?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

By Mr. Masson (Continuing)

Q.—And which were signed by P. C. Shannon & Son Co?

A.—Yes. That is the reason we chose them.

10 Q.—Was there any recommendation made by Mr. Robertson in connection with the choice of P. C. Shannon & Son Co?

A.—I don't remember if Dr. Connolly mentioned it or not, I think we must have been.....

Q.—(Interrupting) Been suggested to take them?

A.—I would not say that we have been suggested to take them. I think it was suggested by us and submitted to Mr. Robertson for his approval.

Q.—Was it submitted to him in writing or verbally?

A.—I don't remember.

20 Q.—Was there any correspondence exchanged in reference to that?

—About the choice of the Auditor?

—Yes.

A.—I don't remember; I am willing to look it up.

30 Q.—You might bring that with you, would you mind? Have you got with you the file containing your correspondence and statements in reference to the Succession Duties' Office of the Province of Ontario?

A.—Yes, here it is.

Q.—Will you file it as exhibit P-C-8?

(Extracts which will be selected from the Ontario Succession Duties' file are to be filed as exhibit P-C-8).

A.—I have no objection.

40 It being half past twelve, the examination of the witness is adjourned until half past two in the afternoon.

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*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief:*

Examined by Mr. Masson, attorney for the plaintiffs:—

Q.—When you accepted to act as Testamentary Executors of the late Mr. Hugh Quinlan, how long after Mr. Quinlan's death did you begin to act as such?

10 A.—I could not say; I guess Dr. Connolly has the date.

Mr. Campbell, K.C.:—Only speak as far as you know.

A.—Right away.

Q.—When have you been informed that you had been appointed Executors?

A.—Somebody must have given us a copy of the will.

Q.—Did you give any notice or did you do anything in view of accepting, whether in writing or otherwise, to act as Testamentary executors?

20

—To whom?

—To the heirs?

A.—I don't remember that.

Q.—What was the first thing you did after you began to act as Testamentary-Executors?

A.—I came in only on the 9th.....

Q.—You started on the 9th?

30 A.—Personally, I think I started, I had nothing to do until the 9th of July, 1927.

Q.—What did you do on that day?

A.—We opened the Safety box. It is June or July 1927.

Q.—That is the first step you took as Testamentary Executors?

A.—Yes.

Q.—Did any one else do something before the 9th of July 1927?

A.—I thing Dr. Connolly met some of the heirs previous to that.

40

Q.—Dr. Connolly met some of the heirs before the 9th of July?

A.—Yes.

Q.—For what purpose, do you know?

A.—I don't know.

And further, for the present, deponent saith not.

At 2.45 p.m., on the fifth day of February 1930, personally came and re-appeared: Emmuanuel L.Parent who, under the same oath, doth depose and say:—



*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—So that Dr. Connolly is the one who could tell us?

A.—Yes.

Q.—He is the one that can say what was done before the 9th of July 1927 by your firm as Testamentary Executors?

10 A.—Yes.

Q.—After having opened the Safety Deposit box, what did you do?

A.—I made a list of the securities.

Q.—You made a list, but after that, did you make any searches about other documents which were in possession of Mr. Quinlan?

A.—Yes.

Q.—Where did you make those searches?

A.—In Mr. Quinlan's office.

20 Q.—Where was that office?

A.—1680 St. Patrick Street.

Q.—Did you go anywhere else?

A.—I think in the Bank of Toronto, or we wrote to the Bank of Toronto if we did not go.

Q.—And after that, did you go to his house?

A.—No, I did not go myself.

Q.—Who went to the house of Mr. Quinlan?

A.—Dr. Connolly, I think; I don't remember.

30 Q.—Dr. Connolly is the one who went there and he is the one who can tell us what was looked for and what was found at Mr. Quinlan's residence after his death?

A.—Yes.

Q.—When you made searches at the office of Mr. Quinlan on St. Patrick street, did you find anything there?

A.—There were securities given to us.

Q.—Did you find any writing or paper besides that?

A.—Oh, yes; I have a list about that.

Q.—Would you mind show me that list?

40 A.—I have looked through my papers; there may be a list in my other files, and I will look for it and have it for the continuation of the examination.

Q.—When you made searches at Mr. Quinlan's office, you made a list of what you found there?

A.—I forget how it was done; I will have to look up my records.

Q.—So that you will be able to answer on that particular point only later?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—What kind of searches did you make at that office?

A.—We were helped by Mr. Leamy and Mr. Robertson.

Q.—Was there any one in charge of the office when you went in?

10 A.—I understand it is the company's office; Mr. Robertson used to have his office in the Company's office, so Mr. Quinlan.

Q.—And you took communication of the papers which were exhibited to you by Mr. Leamy and by Mr. Robertson?

A.—That's right.

Q.—So that no searches were made by you; you only took communication of the papers which were exhibited to you by Mr. Leamy and Mr. Robertson?

A.—Practically.

20 Q.—Did you endeavour to make any search at the office of Mr. Quinlan?

A.—I don't remember.

Q.—Did you not make inquiries besides what you did at Mr. Quinlan's office?

—About what?

—About his assets, about documents or contracts which might have been of any use to establish the assets of the estate, this is what I mean.

30

A.—They gave me everything. I took for granted that everything they handed me at the time was all what was needed for the estate.

Q.—And you prepared a list..... you are not sure if a list was made or not?

A.—I am not sure if a list was made or if they were listed afterwards.

Q.—What is the name of the typist who signed "C.G."?

40 A.—It must be Miss Gardman.

Q.—I read in the file which you exhibited to me this morning an extract of which is to be filed as P-C-5 — that at the bottom of some pages are found some initials, and then "Checked". Must I understand by that that the initial means the initial of the typist and "checked" means that this has been checked from an original?

A.—Not necessary; it may have been checked from a copy.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—It might have been checked from a copy?

A.—Yes, from a copy.

Q.—Do you know anything about exhibit C-3?

A.—I have seen a certified copy and also an original letter.

10

Mr. Campbell, K.C. objects to this evidence.

Question withdrawn.

Q.—In your quality of Testamentary Executor to the estate of Mr. Quinlan, did you assist to the meetings of A. W. Robertson Ltd?

—Myself?

20

—I mean your Company.

A.—I am not on the Board of Directors. I think Dr. Connolly is on the Board.

Q.—Is it to your knowledge that Dr. Connolly assisted at the meetings of A. W. Robertson Limited?

A.—I don't know.

Q.—He is the only person who could inform us on that?

A.—Yes, sir.

30

Q.—You do not know anything about the relations of the estate with A. W. Robertson Limited?

A.—Except that the Estate is shareholder.

Q.—You know that the Estate is shareholder?

A.—Yes.

Q.—Do you know anything about A. W. Robertson Limited besides the estate being a shareholder of it.

A.—I have seen some of the financial statements.

Q.—Were they sent to your company as shareholder?

A.—Yes.

40

Q.—They have been sent to you?

A.—Yes.

Q.—For every year since the death of Mr. Quinlan?

A.—I am pretty sure of it.

Q.—Did you take communication of the financial statements for the previous year to his death?

A.—No, I don't remember if..... I may have, I don't remember.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—For the purpose of valuating the shares of A. W. Robertson Limited, you referred to statements which were handed over to you for five years previous to the death of Mr. Hugh Quinlan?

A.—Yes, mostly the last statement.

10 Q.—Have you got them in your possession?

A.—I have a copy here.

Q.—You have a copy?

A.—Yes.

Q.—Could you exhibit it to me.

A.—Yes.

Q.—That is A. W. Robertson Ltd?

A.—Yes.

Mr. Campbell:—What year did you ask for?

20

Mr. Masson:—1924, 1925, 1926, 1927, 1928.

A.—I find in my files financial statements of A. W. Robertson Limited for years ending December 31st, 1927, 1927, 1926, 1925, 1924, 1923 and 1922.

Q.—Will you exhibit them to me?

A.—I exhibit them, but I do not wish to part with my copies.

30 I will leave the statements with my counsel, Mr. Campbell, and you can take communication of them at his office and arrange with him if you like to have copies of them to be made.

Q.—Have you got the statements of Quinlan, Robertson & Janin Limited for the same years?

A.—Not for the same years, but I have some.

Q.—Could you exhibit them to me?

A.—They may be for the same years, I am not quite sure.

40 I find in my files copies of what purport to be uncertified copies of balance sheet of Quinlan, Robertson & Janin Limited as at the 31st day of March 1922, 1923, 1924, 1925, 1926 and 1927.

Q.—By whom those copies of balance sheets of Quinlan, Robertson & Janin Limited, which you are just exhibiting to me now, have been handed over to you?

A.—I don't remember; they may be copies that we made ourselves of Shannon's statement, I don't remember. We may have gone over to the Succession Duties' Office and made copies of them.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—You are quite sure of the authenticity of those copies?

A.—It is hard for me to say.

Q.—Have you any doubt about the accuracy of that statement?

10 A.—I could not say, unless I could see the Auditor's statement.

By Mr. Campbell, K.C.:—

Q.—You don't know of any inaccuracies in them?

A.—No.

Mr. Masson (Continuing)

20 Q.—Are those the copies of the statements which have been used for valuating the shares of Quinlan Robertson & Janin Limited?

A.—I don't remember if these are the exact statement; if I had the Auditor's statement, I could say whether it is an exact copy.

Q.—Would you mind control the authenticity and tell us at the next session of your examination whether they are accurate or not?

A.—Yes.

30 Q.—And if you have the original, to bring the original with you.

A.—That is all I have.

Q.—You can control the authenticity of them?

Mr. Campbell:—You are exhibiting what you got and they are accurate as far as you know?

A.—Yes.

40 By Mr. Masson (Continuing)

Q.—As far as you know, those copies that you are exhibiting to me are correct?

A.—According to me, they are correct.

Mr. Campbell, K.C., attorney for the Capital Trust, objects to the question as illegal and irrelevant.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Objection taken under reserve in the absence of a judge.

Mr. Campbell:—And you don't know of any inaccuracies in them?

10

A.—No.

By Mr. Masson (Continuing)

Q.—Would you mind file those statements as exhibit P-C-'?

A.—I leave the financial statements referred to in possession of Campbell, K.C., and if you are entitled to have of them made, you can arrange with him.

20

(The copies are left in Mr. Campbell's care until it is arranged how they will be disposed of).

Q.—Did you use the statements which you just exhibited to me in reference to A. W. Robertson Limited to value the shares of A. W. Robertson Limited?

A.—Specially the last statement, at the time of the death of Mr. Quinlan.

30

By Mr. Campbell:—

Q.—The last statement previous to the death of Mr. Quinlan?

A.—Yes.

Q.—When you speak of valuation, you mean the value for Succession Duties' purposes?

A.—Yes, sir.

By Mr. Masson (Continuing)

40

Q.—I understand that you paid a bill for legal fees of \$6,924.16?

A.—Legal fees and administration.

Q.—Do you find that in your books?

A.—Yes.

Q.—\$6,924.16?

A.—That includes both legal fees and the administration fees of the Capital Trust Co, chargeable to capital account.

Q.—What is the amount for administration and the amount for legal fees?

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

A.—Legal fees of all kinds, \$1,426.16. It includes notarial fees chargeable to capital account.

Q.—And the balance is for administration?

A.—Yes, the fees of the Capital Trust, chargeable to capital  
10 account.

Q.—There would be an account of about \$5,000.00 for your administration fees?

A.—In that year, chargeable to capital account, about \$5,000.

Q.—Why do you charge that to capital account?

A.—That is because there is another item chargeable to “Income account”, as shown on statements P-1 and P-3.

Q.—You received bills for those fees paid out?

A.—Oh, yes.

Q.—Could you tell me the amount of the notarial fees?

20 A.—Yes.

Mr. Campbell, K.C., objects to this evidence as illegal and irrelevant.

Q.—In exhibit P-1 on the discovery of Mr. A. W. Robertson, we find on page 8 an item under the name of “Steel Gate, re Peter Lyall, \$8,333.34”.

A question was put to Mr. Robertson, at page 446 of his examination on discovery, asking for explanation on said item, and  
30 Mr. Robertson said that that \$8,333.34 was money that he paid to the Estate, and when I asked him: “Where did the money come from?”, he answered to me: “The documents are in possession of the Capital Trust. Would you mind tell me to what documents he was referring to?”.

Mr. Campbell:—Have you a file about Steel Gate?

40 Witness:—Yes, I have a file containing the original agreement signed by Mr. Quinlan.

By Mr. Masson (Continuing)

Q.—Have you got that in your possession?

A.—Yes.

Q.—Can I look at it?

A.—I have not it here; I brought a bunch of files and I will look it up for you.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—Plaintiffs filed as exhibit P-2 the inventory made at the date of the death of Mr. Quinlan, that is on June 26th 1927; would you mind look at said exhibit P-2 and tell me if that inventory has been prepared by the Capital Trust Company?

10 A.—Yes.

Q.—Are you the one that attended to the making of that inventory?

A.—I supervised it; I did not do all the details.

Q.—This inventory contains a list of all the assets of the estate as found on June 26th 1927?

A.—Known to us at the time we made that inventory.

Q.—Did you discover anything after June 26th 1927 which is not included?

20 Mr. Campbell:—They are the assets as at that date.

Q.—Is it a complete inventory insofar as the assets of the Estate are concerned?

A.—Known to us at the time.

Q.—Since the preparation of the inventory, did you find anything else?

A.—Yes.

Q.—After the institution of the action did you find anything?

30 A.—I don't know if it is before or after, but I know we found something.

Q.—For a substantial amount?

A.—No.

Q.—Did you take possession, after the death of Mr. Quinlan, of his private papers, correspondence, letters, contracts, etc?

A.—I don't remember; we took possession of everything that was given to us by Mr. Leamy and Mr. Robertson.

Q.—You did not make any inquiries to find something else besides what they gave you?

40 A.—Not that I know of, I don't remember.

By Mr. Campbell, K.C.:—

Q.—Did you do that part yourself?

A.—For an afternoon, I guess for a whole afternoon; Mr. Leamy worked with me. I did not know where were his personal papers. He diged them up for me.



*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

By Mr. Masson (Continuing)

Q.—Did you meet with any difficulty with Mr. Leamy insofar as possession of those papers were concerned?

10 A.—No, he seemed to be willing to give them all to me.

Q.—You did not ask him for anything else than what he offered to you?

A.—No.

Q.—You did not try to find whether there was something else or not?

A.—I don't know what you mean.

Q.—Did you not endeavour to find out whether there were other documents, papers besides those which were given to you by Mr. Leamy and Mr. Robertson?

20 A.—We inquired at the bank to see whether they had some papers, we tried at the Bank of Toronto in Montreal.

Q.—Was Mr. Robertson present from the beginning up to the end of the interview you had with Mr. Leamy and Mr. Robertson, when you got those papers to which you referred to in your last answer?

A.—I don't remember; I don't think he was there all the time. He may have been in some offices, I don't remember if he was there all the time. I think he was there the whole afternoon?

Q.—You think he was there the whole afternoon?

30 A.—I am pretty sure.

By Mr. Campbell:—

Q.—In his own private office?

A.—Yes.

By Mr. Masson (Continuing)

40 Q.—But you were communicating with him from time to time?

A.—Yes.

Q.—You did yourself and Mr. Leamy communicate with Mr. Robertson from time to time in his own private office which was in the same building?

A.—Yes.

Q.—On the same floor?

A.—Mr. Leamy is the one who supervised the inventory, or the list of all papers handed over to me.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—That came from that office?

A.—I did not see anybody else, may be there was one of Mr. Quinlan's family, Billy.

10 By Mr. Campbell:—

Q.—Is he employed in the office?

A.—I am not sure; I saw him a couple times.

By Mr. Masson (Continuing)

Q.—Who was the one who appeared to be in charge of those papers at the time they were given to you?

20 A.—Mr. Leamy.

Q.—Did he ask for any instructions from Mr. Robertson at the time?

A.—I don't remember; probably he was given instructions, I don't remember.

Q.—Mr. Leamy was an employee in that office?

A.—Yes, as far as I know.

Q.—And you made searches in all the files which were there?

A.—Oh no. Personally?

Q.—Yes.

A.—No, I did not say that.

30 Q.—How long did that interview last?

A.—Nearly all the afternoon.

Q.—It was not very long to take the papers and give them to you, if you did not make any searches?

A.—It took all afternoon, as far as I remember.

Q.—What did you do besides getting all the papers?

A.—We made a list of them, we made a list of the bonds, of all the securities.

40 Q.—Did you get a file of correspondence or anything of the kind?

A.—There may have been a few documents, I don't remember if I made a list; I will have to look up the record of what has been given to me that day from that office; I don't remember off hand.

Q.—On what day was it?

A.—On the 9th of July, 1927.

Q.—It was on the same day of the opening of the safety deposit box?

A.—Yes.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—You opened the safety box in the morning?

A.—As far as I can remember.

Q.—And in the afternoon, you went to the office?

A.—Yes.

10 Q.—In the morning Mr. Robertson was with you only a few minutes and in the afternoon, he was in the office the whole afternoon?

A.—May be more, in the morning.

Q.—About fifteen minutes?

A.—I don't remember how long.

Q.—In the afternoon, he was in the office the whole afternoon?

A.—Yes, as far as I could remember.

20 Q.—Besides what you got from the office of Mr. Quinlan, did you get anything else or did your firm get anything else?

A.—From where?

Q.—From any other source. Did you get any paper or documents besides the one which you got on that day?

A.—The only place we have received anything, as far as I remember, is at the Bank of Toronto from the Safety Deposit box and in the office of Mr. Quinlan; may be Mr. Robertson personally may have found some other papers later on that may have been handed to us.

30 Q.—Was there anything that you got from the house, did you get any private papers at the house?

A.—Not that I know of.

Q.—So that everything you got was coming from the bank, from the vault, and the office?

A.—Yes.

Q.—And you got everything on the 9th of July 1927.

A.—No, there were some other papers that were forwarded to us after, I will have to look up the file.

Q.—Forwarded to you by mail?

40 A.—By mail or given to us, I forget, but very few, when we were here.

Q.—Did you receive anything when you came back to Montreal?

A.—After the month of July 1927?

Q.—Or at some other times?

A.—Yes. They were not securities, may be copy of contracts or letters; I don't remember having received one security. It was either copy of old papers or contracts, for safe keeping.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—Could you give me the number of your file under the name of Quinlan, Robertson & Janin Limited; is it file No. 24?

A.—It would take more than one file for that because it is heavy.

10 Q.—But that is the file number?

A.—24 is probably the main file; there may be 24-a, 24-b and so on.

Q.—You have not got the original of those files?

A.—There may be some in our office. It is either here or in Ottawa.

Q.—In Montreal?

A.—I think I have, I am not quite sure.

Q.—Could I have a look at it?

A.—If my counsel does not object.

20 Q.—There was some correspondence exchanged between the Capital Trust Co and Ethel Quinlan in reference to certain financial statements pertaining to the estate?

A.—Yes, a few letters, I think.

Q.—Have you got these letters with you?

A.—I don't know if they are in Montreal, but I have seen a few letters.

Q.—Would you mind bring them with you for your next examination?

A.—Yes, sir.

30 Q.—Have you got any other papers which you brought with you?

A.—I have brought with me various memoranda from my files in reference to the estate.

Q.—Would you mind file as exhibit P-C-9 the list of securities which are in possession of the estate?

A.—I will have copies of them prepared.

Q.—Will you file as exhibit P-C-9 a copy of the memoranda of the bonds and securities that were handed over to you and as of date January 31st 1930 and certified by Mr. E. L. Mathieu?

40 A.—I will have copies for prepared for filing.

Q.—I understand that those memoranda, exhibit P-C-9, have been prepared from your own records and files, is it not?

A.—Yes, from the securities on hand at that date.

Q.—There is no doubt as to the accuracy of those memoranda?

A.—I did not check them myself.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—I understand that on the list of securities received from A. W. Robertson, the words “Date received, November 2nd, 1928” should be before the words “Fuller Gravel Co”?

A.—Yes, it looks to me that way.

10 Q.—In other words, there was a mistake in typewriting and this means that the shares of A. W. Robertson Limited were received by your firm, as Testamentary Executors, on November 2nd, 1928?

A.—This is what the statement says; I will verify that.

Q.—But it appears from the certified list which you are just exhibiting to me, and copy of which will be filed as P-C-9, that the shares of A. W. Robertson Limited have been handed over to your firm on November 2nd, 1928, and those of Fuller Gravel Co on Aug. 26th 1927.

20 A.—From that statement, from the copy of that statement.

Q.—From the statement as certified by E. L. Mathieu and E. Dubé — what is the occupation of Mr. Mathieu?

A.—He is assistant estate officer, he is an assistant in my department.

Q.—In your department?

A.—Yes.

Q.—Have those memoranda been submitted to you before being signed by Mr. Mathieu?

30 A.—I may have given to them a quick look, a glance, but did not bother to check the details.

Q.—From what source did Mr. Mathieu get his information?

A.—It was rather Mr. Dube who completed it.

Q.—From what source did Mr. Dube complete the figures and dates of those memoranda?

A.—From our books.

Q.—Your ledger book?

A.—Security book.

Q.—You have a special security book?

A.—Yes.

40 Q.—Those figures and dates which appear on those memoranda, exhibit P-C-9, have been compiled from your security book?

A.—Yes.

Q.—And the source of information contained on those memoranda is the Security book of your Company?

A.—Yes.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—The security book which is the source of the facts, dates and amounts mentioned on exhibit P-C-9 is in your office in Ottawa?

A.—Yes.

10 Q.—Is it a big book?

A.—Quite.

Q.—Would it be difficult to bring it to Montreal?

A.—I would not like to part with it because it is a general book for all securities, not only the ones of this estate; it is in use every day.

Q.—I understand that if we were deciding to go to Ottawa, you would have no objection to let us look at the book?

A.—Insofar as the Estate is concerned, you are welcome to see our entries.

20 Q.—The last page of that exhibit P-C-9, a copy of which will be made, reads:

“ January 31st. 1930.”

“List of securities received from A. W. Robertson:

“A. W. Robertson Ltd., certf. No. 2	925 shares
“ “ No. 4	1 share
“ “ No. 9	510 shares
“ “ No. 13	150 shares
Total.....	1,586 shares

30

Then:—

Fuller Gravel Co.

(Date received, Nov. 2nd 1928)

No. 3 .....	1,000 shares, preferred
No. 3 .....	1 share, common
No. 11 .....	2 shares, common
No. 13 .....	496 shares, common

40

(Date received, Aug. 26th 1927)

At the bottom:—

“Certified correct according to records

“E. L. Mathieu, E. Dubé

“Typed, M.F.

“Checked : Man.”

Q.—What is the meaning of “Man”?

A.—I don't know who he is.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—And as said a moment ago, the date November 2nd, 1928, should be before the words Fuller Gravel Co.

A.—It looks to me like that; I will have to verify.

10 Q.—At all events, the date: Received August 26/27 refers to Fuller Gravel?

A.—It looks like that.

Q.—This has been made by your assistant?

A.—By one of them.

Q.—By one of your assistants?

A.—It was rather made by Mr. Dubé.

Q.—But this has been done under their direction?

A.—Yes.

Q.—Those are employes whom you are supervising at the office of the Capital Trust?

20 A.—Yes.

Q.—They are competent men?

A.—Yes.

Q.—And you understand the work they are doing?

A.—Yes, but I don't check it.

Q.—Do you understand that the date "Received Aug. 26th 1927," means that the shares of Fuller Gravel were received on that date?

A.—I would judge, but I will have to verify.

Q.—From that paper, what do you say?

30 A.—I would rather wait until I check it up.

Q.—Without checking, suppose you have to give an answer right away, what would you say?

A.—I would think so, but I could not swear if it is correct; I will have to verify.

And further, for the present, deponent saith not.

The examination of this witness is continued to a date to be fixed between the parties in this case.

40

Geo. Chamberland,  
Stenographer.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

DEPOSITION OF EMMANUEL LUDGER PARENT

Continuation of the examination on Discovery of Mr. E. L.  
10 Parent, taken out of Court, by consent of the parties at the office  
of Mr. Geo. A. Campbell, K.C.

On this 19th day of February nineteen hundred and thirty,  
personally came and reappeared : Emmanuel Ludger Parent, a  
witness already sworn, who, under the same oath, continues his  
evidence as follows.

Examined by Mr. Geo. A. Campbell, K.C., Attorney for the  
20 Capital Trust Corpn.

Q.—Mr. Parent, since you gave your deposition on discovery  
on the 5th of February, I understand you have read the trans-  
cription of the deposition and that you wish to make certain  
slight changes?

A.—Yes.

Q.—On page 13, line 13, the question was put to you :

30 “ Did Mr. Robertson write or consult your firm in re-  
ference to the estate ?” And the answer you gave reads as  
follows : “ No, except that I sent him copies once a while on  
different matters. ”

Is that the answer which you intended to give to that?

A.—No.

Q.—Will you give it?

A.—It should be : “ Yes, several interviews in Ottawa and  
in Montreal, and numerous correspondence. ”

40 Q.—Page 21, sixth line from the bottom, in reference to  
young “ Harry ” Quinlan; is that the correct name?

A.—It should be BILLY.

Q.—Page 58, at the first line, or the last question on page  
57, you were asked if exhibit P-C-9 had been prepared from your  
own records and files, and your answer was : “ Yes, from the  
securities on hand at that date. ”

Would you wish to add anything by way of explanation?



*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

A.—Yes, I wish to add this : “ Exclusive of securities for investments made since Mr. Quinlan's death. ”

10 They were not included in that.

Q.—In what?

A.—In that list.

By Mr. Masson (continuing):—

Q.—On page 58 of the transcription of your deposition, when you say that the memoranda, exhibit P-C-9 has been prepared from the securities on hand at that date, you mean at the date of the memoranda?

20 A.—Is that the list of securities ? You better show me the list.

Q.—From the explanation which you gave in reference to page 58 of the transcription, you are making an exception for the securities which have been invested by the Executors since the date of the memoranda?

A.—They are not on that last list furnished you.

By Mr. Campbell, K.C.:—

30 Q.—Since the death of Mr. Quinlan?

A.—Yes, since the date of the death of Mr. Quinlan.

Mr. Masson (continuing):—

Q.—Before beginning to fulfil your functions as testamentary executors, you read the Will carefully?

A.—Yes, I did read it several times.

Q.—You read it several times?

A.—Yes.

40 Q.—You read it before beginning your functions as Testamentary-executors?

A.—Yes. I don't remember the first day I read it.....

Q.—But you read it at the beginning?

A.—Yes.

Q.—And since that time?

A.—Yes.

Q.—Several times?

A.—Yes, sir.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—Did you understand each clause of the Will?

A.—I think the Will was clear to me.

Q.—The Will was clear to you, so that you did not need to consult your legal adviser on questions pertaining to the will?

10 A.—I would not say that; I think we took legal advice once.

Q.—In reference to what?

A.—In reference to investments.

Q.—Besides that you were not in the necessity of asking any legal advice?

A.—Not that I remember.

Mr. Campbell:—You mean on the construction of the will?

20 Mr. Masson:—Yes.

Q.—So that you understood clearly to your satisfaction all the clauses of the will, except on that particular point to which you referred when you referred to the legal adviser of the Estate?

A.—Yes.

By Mr. Campbell, K.C.:—

Q.—You are speaking as for yourself?

30 A.—Yes.

By Mr. Masson, (continuing):—

Q.—If the will was clear to you, it was clear for anybody that had to deal with it?

A.—Well, I would not say that.

Q.—In the Capital Trust?

A.—Dr. Connolly will have to speak for himself.

40 Q.—Have you got any special book to support the entries made in the ledger of the estate which you have exhibited to me the last time?

A.—Yes.

Q.—How do you call that book?

A.—It is called the Estates' General Ledger.

Q.—The Estates' General Ledger, is that the book which you have in your possession?

A.—No, this is the Quinlan Estate book, The General Ledger for estates is a book that takes care of all ledgers, it is a loose-leaf book and there is an account for each estate.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—You have an Estates General Ledger which covers all the estates that you are administrating?

A.—Yes.

10 Q.—And besides that General Ledger, you have a particular ledger for every estate you are looking after?

A.—Not for all estates. Only for large estates : we would not have a ledger like that for a small estate; we have one when it is needed.

Q.—So that your book of original entries is the Estates General Book which you have?

A.—General ledger.

Q.—Is that ledger under your care?

A.—It is under my supervision, but it is done by others.

20 Q.—So that all entries contained in the Quinlan Estate ledger are supported by the entries made in the General Estates Ledger?

A.—There may be general, there may be small entries that are not going in that Estates General Ledger; there is a special journal.

Q.—There is a special journal for each particular estate?

A.—No, it is for all estates.

Q.—Have you got any cash-book?

A.—We have the cash-book of the company.

Q.—Of the Company, you say?

30 A.—There is no special cash-book.

Q.—You have the cash-book of the Company?

A.—For all estates.

Q.—All monies collected or received for all the estates you are administering are entered in the same book?

A.—Yes, in the same cash-book.

Q.—And the different amounts are posted to the particular ledger you have for each estate?

A.—Yes.

Q.—Is that general cash-book a loose-leaf book?

40 A.—No, it is a bounded book.

Q.—That is the only bounded book you have in reference to your book-keeping?

A.—In reference to this case?

Q.—Yes?

A.—I don't know; some are bounded and some are loose-leaf books.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—From all the books which you have spoken to me and which are relating to this estate, which are supporting the entries made in the Quinlan Estate ledger, you have only the cash-book which is bounded?

10 A.—The cash book and the journal.

Q.—Have you the journal with you?

A.—No.

Q.—Have you got the cash-book?

A.—We could not bring the cash-book down; it is a big book and furthermore we would have to close the office in order to bring it here, it is in use every day.

Mr. Campbell, K.C.:—

20 Q.—It covers all the estates?

A.—Yes. About the cash-book, I should say there are really two cash-books, one covers the receipts and the other one covers the disbursements.

By Mr. Masson (continuing):—

Q.—Both are bounded?

A.—Yes, sir.

30 Q.—I notice in exhibit P-2, filed with the Declaration, and in the statements which were sent to the Succession Duties' Office for the Province of Ontario and for the Province of Quebec, the defendant does not mention the Estate as being interested in the Ontario Amiesite or in the Amiesite Asphalt Limited, Crookson Quarries Ltd, Quinlan Robertson Limited and a few other companies.

40 Would you mind look at that exhibit P-2, filed with the Declaration and at the statements which were sent to the Succession Duties Office for the Province of Ontario and for the Province of Quebec and tell me whether the estate of Mr. Quinlan appears to be interested in the following companies: Ontario Amiesite, Amiesite Asphalt, Crookson Quarries Ltd., Quinlan, Robertson, Ltd.

A.—I suppose the document speaks for itself.

Q.—Would you mind tell me why the estate does not appear as being interested in those different companies?

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

A.—The Crookson Quarries, I understand, belongs to M. W. Robertson Limited; I never knew they belonged to the estate; I never knew the estate had any direct interest in Crookson Quarries.

10 Q.—What about the Ontario Amiesite?

A.—The Ontario Amiesite and Quinlan & Janin, we considered that Mr. Quinlan had sold his shares under that letter dated the 20th of June.

Mr. Masson objects to the last part of the answer which refers to a letter dated June 20th.

20 Q.—Did you make any attempt to take communication of the Minute-Book of A. W. Robertson Ltd?

A.—Not personally.

Q.—Did you have any searches made by someone else?

A.—Dr. Connolly was on the Board of Directors and he had access to the Minute-Book.

Q.—So that all the information that the Estate received in reference to Crookson Quarries Ltd. was coming from Dr. Connolly who was a Director of A. W. Robertson Ltd?

A.—Or our co-executor, Mr. Robertson.

Q.—And your co-executor, Mr. Robertson?

A.—Yes.

30 Q.—So that the information in reference to Crookson Quarries came to you direct from Mr. Robertson or from Dr. Connolly who were on the Board of Directors of A. W. Robertson Ltd?

A.—Yes.

Q.—The Defendant, Capital Trust, knew by its officers that Dr. Connolly and Mr. A. W. Robertson were interested in A. W. Robertson Limited?

A.—As Directors or shareholders.

Q.—As Directors and Shareholders, both?

A.—Dr. Connolly had one share.

40 Q.—As Directors, were they both interested?

A.—In the Company? I don't get the meaning of your question.

Q.—The Capital Trust knew that Dr. Connolly and Mr. A. W. Robertson were interested as Directors in A. W. Robertson Limited?

A.—I don't know what you mean by the Capital Trust.

Q.—Its officers, Dr. Connolly?

A.—Well, he must know, because he is general manager himself.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—And he knew himself?

A.—That he was on the Board?

Q.—Of A. W. Robertson Limited.

10 A.—I don't know; if I knew the date he was appointed I could tell you. I know that he is on the Board of Directors, but I don't know if he was from the beginning.

By Mr. Campbell, K.C.:—

Q.—You don't know when he was appointed?

A.—No.

By Mr. Masson:—

20 Q.—Is it not a fact that before the death of Mr. Quinlan, Dr. Connolly was a director of A. W. Robertson Ltd?

A.—Not that I know of.

Q.—When did you hear for the first time anything about Crookson Quarries Limited?

A.—I will have to look up our file.

Q.—A long time after the death of Mr. Quinlan?

A.—If I look at the file, I can tell you the date right away.

(The file is brought to Mr. Parent).

30 A.—On the 21st of May 1928, according to my file.

Q.—I notice in the file which you are exhibiting to me, and which refers to Crookson Quarries Limited that on June 18th 1928, Mr. Robertson wrote to the Capital Trust Company, sending a notice of the Municipality of Huntingdon, showing the valuation of Crookson Quarries properties to be \$4,500.00?

A.—That is exact. That is what appears from his letter.

40 Q.—Can you explain how it is that Mr. Robertson was communicating with the Capital Trust as executor in reference to Crookson Quarries, if you were of the opinion that Crookson Quarries belonged to A. W. Robertson Ltd?

A.—He wanted us to find a purchaser, to help him find a purchaser, that is my understanding.

Q.—So that file which you have in reference to Crookson Quarries, and the letter sent to you on June 18th 1928 by Mr. Robertson was a service to be rendered, not in your capacity of executor of the estate Quinlan, but as agent for A. W. Robertson, for the sale of Crookson Quarries Limited.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Mr. Campbell, K.C.:—Objected to the form of the question, because the Estate was interested in A. W. Robertson Ltd. to the extent of 50% as to the outstanding shares of the Company. I think you are putting a hypothetical question.

10

Mr. Masson:—

Q.—I understand from what has just been told me that Mr. Robertson referred to your company in reference to the sale of Crookson Quarries because the estate was interested to the extent of 50% of A. W. Robertson Limited?

A.—No doubt it was that.

Q.—So that you were acting, when you received that letter, as testamentary-executor and not otherwise?

20

A.—I would not say that.

Q.—And as agent for Mr. A. W. Robertson?

A.....

Q.—So that you were acting as agent for Mr. Robertson and also as testamentary-executor to the estate Quinlan?

A.—It is pretty hard.....

Mr. Campbell:—It is a question of law.

Q.—Did you have anything to do in reference to the sale of Crookson Quarries Limited?

30

A.—We have advertised several times, and naturally we did not put the price or cost for advertising to be paid by the estate; we had to send them to Mr. A. W. Robertson to be paid.

Q.—So that the advertising for the sale of Crookson Quarries Limited was paid by yourself and re-imbursed by Mr. A. W. Robertson?

A.—No.

Q.—Or the bills for advertisements for the sale of Crookson Quarries Limited were sent to A. W. Robertson Limited for payment?

40

A.—Yes.

Q.—Did you make any sale of the whole or of any part of Crookson Quarries Limited?

A.—Not that I know of; let me see..... of the land you mean or of the stone taken away?

Q.—Yes?

A.—I think it was leased for a time, but I am not familiar with that because it was done with A. W. Robertson Ltd.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—You are not acquainted with the transactions that took place between the Trust company in reference to Crookson Quarries Limited?

A.—There was no sale made.

10 Q.—Or of conversations or contracts. Are you acquainted with any contract that was entered into with Crookson Quarries?

A.—No. Mr. Robertson may have sent us copies of letters for the time they were leased; I think they were under lease at the time of Mr. Quinlan's death, some letters showing what A. W. Robertson Ltd. had received for the lease or the taking of the stone, the price they were getting for the stone taken out; I think there is some correspondence about that.

20 Q.—During your last examination you said that you would file as exhibit P-C-5 the documents selected from your file referring to Quebec Succession Duties?

A.—Yes, I have had a copy made from our file which I now offer as exhibit P-C-5.

Counsel for Defendant objects to the production of this file as irrelevant and illegal.

The objection is reserved in the absence of a judge.

(Exhibit P-C-5 contains 113 sheet).

30 A.—I have not counted the pages myself, but if Mr. Désaulniers says so, I presume it is right.

Q.—Will you file as exhibit P-C-6 the copy of the letter sent by your Company to Mr. J. E. Lazure dated December 31st 1927.

Same objection.

Same reserve.

40 A.—I file the copy as P-C-6, subject to verification of the correctness of that number.

Q.—Will you file as exhibit P-C-8 your file containing the correspondence exchanged with the Ontario Succession Duties Office, as explained at page 36 of the transcription of your last deposition.

Same objection.

Same reserve.



*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

A.—Under reserve of the objection, I produce a copy of the file of correspondence which Mr. Desaulniers states if contains 22 pages; I have not counted them.

10 Q.—Would you mind exhibit to me P-C-9 which is a list of the securities as referred to; on page 60 of the transcription of your deposition.

A.—I do, and I call attention to the fact that the second last page of the exhibit has been corrected since my last deposition, the date November 2nd 1928 was misplaced, in reference to the A. W. Robertson Limited certificates which had been wrongly placed on the copy previously exhibited by me. This list, as I have already explained does not contain the securities purchased since Mr. Quinlan's death.

20 Q.—In the course of your last examination, you told us that you would look in order to find out whether you had certain copies of reports made by Shannon & Co. of A. W. Robertson Limited and Quinlan, Robertson & Janin Limited; did you look for those copies?

A.—Yes, we have the copies.

Q.—Would you mind file as exhibit P-C-10 the copies of Shannon's statements with reference to Quinlan, Robertson & Janin Limited?

30 A.—Shannon is not the auditor, it is Petrie Raymond. I have what purports to be typewritten copies of the balance sheets of Quinlan, Robertson & Janin Limited as at the 31st of March 1922, 1923, 1924, 1925, 1926 and 1927, which I exhibit to you.

Q.—Would you mind file those uncertified copies as exhibit P-C-10?

A.—I do not wish to part with this file, which is our only office record, but I will have copies made and file them as exhibit P-C-10.

Q.—I understand that upon your Counsel's advice, we are abandoning to the decision of the Court the filing of the balance sheets of A. W. Robertson Limited for the same years.

40 A.—Yes, I understand from the objection of my counsel that he objects to the filing of these as it is irrelevant and it will have to remain until the court rules on the objection.

Q.—When did you hear for the first time that the estate was interested in the Fuller Gravel Company?

A.—I will have to look up my file; on the 9th of July 1927, or around that date.

Q.—It was brought to your knowledge that the estate was interested in the Amiesite Asphalt of America?

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

A.—Amiesite Asphalt of America ? I never heard of the name before.

Q.—When were you informed for the first time that the estate was interested in that mortgage for \$17,500. at Ville  
10 Lasalle?

A.—I will have to look up the file.

Q.—Have you got that file with you?

A.—I think I have it here. 23-F.

My file shows that the first letter received about that from Mr. Robertson is dated the 21st of February 1929.

Q.—Can I look at the file which contains the letter which you  
20 just referred to?

A.—You can read any letters that are in that file exchanged with our co-executor, Mr. Robertson or other parties other than the Attorney for the estate or our own attorneys, which I think are privileged.

Q.—Will you file as exhibit P-C-11 the original of the letter signed by A. W. Robertson on the 21st day of February 1929, addressed to the Capital Trust Corporation in reference to joint mortgage on Ville-Lasalle property.

A.—I exhibit the original and I will have a certified copy of it prepared and we will file it as exhibit P-C-11.

Q.—Did you pay any income tax after the death of Mr.  
30 Quinlan?

A.—I will have to look up my book.

Q.—There is \$5,518.97.

A.—There were four items paid on March 26th.

Q.—Did you pay any income tax after the time of the action.

Mr. Campbell, K.C.:—The action was brought October 25th 1928.

40 A.—We paid some on March 26th 1928.

Mr. Campbell, K.C.:—Limit your answers to what was done previous to the action, previous to October 25th 1928.

A.—My book shows \$5,518.97. It was paid on two dates, March 26th 1928 \$5,509.66 and June 21st, \$9.31.

Q.—This appears from the ledger of the estate at what page?

A.—Page 407.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—At the time of the death of Mr. Quinlan, was there any legal fee due by Mr. Quinlan?

A.—I have already answered.

10 Mr. Campbell, K.C.:—He is asking : was there any liability for legal services outstanding at the date of Mr. Quinlan's death.

A.—I have already furnished a list of all the claims paid.

Q.—Was there any legal fee due by Mr. Quinlan at the time of his death?

A.—Not that I know of, but I will have to verify my record.

Q.—I read at page 403 of the ledger of the estate the following entry : “ November 14th ..... ”

20 Mr. Campbell:—You must not go into anything brought after the action was taken.

Q.—There is an entry : Biron & Poirier, \$432.40, notarial fees; there is another one July 26th 1928 for Perron & Tasche-reau, \$10.00; and there is an entry made on November 24th which reads as follows : “ Hon J. L. Perron, legal fees and disbursements, June 30th 1927 to November 15th 1928, to advising the estate generally, disbursements and services re succession duties, \$1,000.00; cost of telegram \$1.26, total : \$1,001.26.

30 Objected to the question by Mr. Campbell, K.C., as illegal and irrelevant.

Objection reserved in the absence of a Judge.

A.—Yes.

Q.—Now, will you tell me on what date you paid the succession duties at Quebec and at Toronto for the Province of Ontario?

A.—There were several payments.

40 Q.—I want the date of the last one.

A.—June 30th 1929, that is the small amount.

Q.—But the big one?

A.—There was a larger amount in May 10th, 1928.

Q.—You made a certain statement to the Succession Duties Office at Quebec and on that statement, after long discussions, was definitely accepted by the Department of Succession Duties; a certain amount was charged to the estate as being the amount to be paid for succession duties, is it not?

A.—Yes, sir.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—They rendered what they call their statement and they made a charge for succession duties on that statement?

A.—Yes.

10 Q.—Subsequently to that, you discovered that there was a debt, a liability of the estate for \$5,518.97 for income tax, is it not?

A.—It was due at the death of Mr. Quinlan.

Q.—Was the income tax liability declared in the statement to the Succession Duties Office?

A.—I don't think it has been included.

Q.—Did you ever make a claim on account of the increase for reimbursement on account of the estate to the Succession Duties Office?

20 A.—There was no claim to be made, I consider there was no claim to be made.

Q.—Did you make a supplementary declaration in 1929?

A.—No.

Q.—It was brought to your attention that the Estate was interested in that mortgage of Ville Lasalle?

A.—Yes.

Q.—And you were charged on that special declaration?

A.—Yes.

Q.—And you paid the amount claimed by the Succession Duties Office?

A.—Yes.

30 Q.—And this special charge of the Succession Duties was on account of the increase of the assets of the estate?

A.—Yes.

Q.—Discovered since the declaration which was the basis of the Estate's account which was sent by the Succession Duties Office for the dues due by the estate?

A.—Yes.

Q.—Did you try to have a reduction on the duties to be paid when you discovered that the estate was indebted to the extent of \$5,518.97 for income tax?

40 A.—It was not discovered before to-day.

Q.—You know that you paid \$5,518.97?

A.—It was not discovered, I am not quite sure if it was included in my list; if it was not, it was an oversight. We should make a claim and we should make another claim.....

(Questions and answers in reference to a sum of \$12,000. considered as a liability at the time of the death of Mr. Quinlan and repaid since, by consent of the parties, are excluded from the record).

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—Did you pay any other liability which was discovered subsequently to the filing of the report to the Succession Duties Office?

10 (The question is left unanswered).

And further, for the present, Deponent saith not.

The examination of the witness is postponed until the 24th of February, 1930, when the objections made will be decided by a Judge of the Superior Court.

G. Chamberland,  
Stenographer.

20

Continuation of the examination of Mr. Emmanuel Ludger Parent, taken out of Court, at the office of Mr. Geo. A. Campbell, K.C., by consent of the parties.

On this 14th day of May, nineteen hundred and thirty, personally came and reappeared : Emmanuel Ludger Parent of the City of Ottawa, in the Province of Ontario, Accountant, a witness examined on behalf of Plaintiffs, on discovery, who, under the same oath already given in this case depose and say as follows :

30

Examined by Mr. Jacques Désaulniers, Attorney for Plaintiffs :—

Q.—Will you produce as exhibit P-C-12 copy of a memorandum addressed to Mr. Deyoung signed by Helen Quinlan in regard to the keys of the safety deposit box of Hugh Quinlan?

A.—I do.

Q.—Will you produce as exhibit P-C-13 certified copies of  
40 correspondence in reference to the appointment of the auditors, Messrs. P. C. Shannon & Son Co. as auditors of the estate?

A.—I do.

Counsel for Defendant, Capital Trust Co., objects to the filing of any documents or correspondence subsequent to the institution of the proceedings in this case.

Production allowed in the absence of the Judge subject to a ruling on the objection.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

This objection is in general terms to apply to all documents or correspondence subsequent in date to the institution of the proceedings.

10 Q.—Will you produce and file as exhibit P-C-14 certified copies of correspondence with the heirs in connection with the financial statements of the estate?

A.—I do.

Q.—Will you produce and file as exhibit P-C-15 certified copies of correspondence re Quinlan, Robertson & Janin, Limited?

A.—I do.

Q.—Will you produce and file as exhibit P-C-16 certified copies of correspondence re Peter Lyall & Son Ltd.?

A.—I do.

20 Q.—Will you produce and file as exhibit P-C-17, copies of correspondence in connection with the resignation of A. W. Robertson?

Counsel for the Defendant, Capital Trust Co. Ltd, objects to the production of the said document as irrelevant, illegal and as there is no allegation in the pleadings to justify it, and in any event because the suggestion was never given effect to.

30 Production allowed in the absence of the Judge under reserve, Defendant reserving its right to have it rejected from the record when the objection is decided.

A.—I do.

Q.—Will you produce and file as exhibit P-C-18 certified copies of letters re Amiesite Asphalt Companies — your file No. 24-A?

A.—I do.

Q.—Would you mind give the reference number of your files?

40 A.—P-C-11 is our file No. 23-F;  
P-C-12 is our file No. 402;  
P-C-13 is our file No. 408;  
P-C-14 is our file Nos. 501-508;  
P-C-15 is our file No. 24;  
P-C-16 is our file No. 45;  
P-C-17 is our file No. 612;

Q.—Will you produce and file as exhibit P-C-19 certified copy of trust agreement re Mrs. Kirkup — I understand there is no file number?

A.—I do.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Mr. Campbell, K.C., attorney for Defendant Capital Trust Co. Ltd. objects to the production of this document as illegal, irrelevant and not arising out of the pleadings.

10      Objection reserved in the absence of the Judge.

Q.—Will you produce and file as exhibit P-C-20 copies of letters between Hon. J. L. Perron and the Executors re Amiesite Asphalt Limited — your file No. 24-A?

A.—I do.

Counsel for Defendant objects to the production of any correspondence between the Executors and their Counsel.

20      Objection reserved in the absence of the Judge for reasons to be stated at length before the trial Judge.

Q.—Will you produce and file as exhibit P-C-21 certified copies of letters between Hon. J. L. Perron and the executors re Peter Lyall, your file No. 45.

Same objection.

Same reserve.

30      A.—I do.

Q.—Will you produce and file as exhibit P-C-22 certified copies of letters between Hon. J. L. Perron and the executors re Quebec Succession Duties — your file No. 401 :

Same objection.

Same reserve.

40      A.—I do.

Q.—Will you produce and file as exhibit P-C-23 certified copies of letters between Hon. J. L. Perron and the Executors re Quinlan, Robertson & Janin, Limited — your file No. 24 :

Same objection.

Same reserve.

A.—I do.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—Will you produce and file as exhibit P-C-24 certified copies of letters between Hon. J. L. Perron and the Executors re complaint of heirs re statements — your file No. 501-508.

10 Same objection.

Same reserve.

A.—I do.

Q.—Will you produce and file as exhibit P-C-26 certified copies of letters re Fuller Gravel Ltd. — your file No. 29;

A.—I do.

20 Q.—Will you produce and file as exhibit P-C-27 copy of the auditors report, P. C. Shannon Son Co, to the shareholders dated February 10th, 1923, and balance sheet of A. W. Robertson Ltd.?

A.—I do.

Q.—Will you produce and file as exhibit P-C-28 the report of the auditors, P. C. Shannon Son Co. to A. W. Robertson, Ltd., dated February 15th 1924, with attached balance sheet?

A.—I do.

Q.—Will you produce and file as exhibit P-C-29 copy of the report of the auditors, P. C. Shannon Son Co. to A. W. Robertson Limited, dated March 5th 1925, with attached balance sheet?

30 A.—I do.

Q.—Will you produce and file as exhibit P-C-30 copy of the report of the auditors, P. C. Shannon Son & Co. to the president, Directors and shareholders of A. W. Robertson Limited, dated February 11th 1926, with attached balance sheet?

A.—I do.

Q.—Will you produce and file as exhibit P-C-31 copy of the report of the auditors, P. C. Shannon Son & Co. addressed to the Directors and shareholders of A. W. Robertson Limited dated February 7th 1927 with attached balance sheet?

40 A.—I do.

Q.—Will you produce and file as exhibit P-C-32 copy of the report of the auditors, P. C. Shannon Son & Co. to A. W. Robertson Limited, dated March 24th 1928 with attached balance sheet?

A.—I do.

Q.—Would you mind look at exhibit P-C-23 which refers to an abstract from a letter dated September 26th 1928, and tell me the reason why you file only the abstract instead of filing the letter?



*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

A.—For the purpose of our filing; the original is kept on one of the files and an abstract is made which refers to each case.

10 Q.—Have you the original of the letter in your possession?

A.—No doubt.

Q.—Since you have been asked to file copy of the letters themselves, would you have any objection to file the letter itself instead of an abstract?

A.—I will have it looked up.

By Mr. Campbell, K.C.:—

Q.—What is the date?

20 A.—September 26th 1928.

Q.—What file?

A.—24.

By Mr. Masson:—Letter of Perron & Co. to Capital Trust, dated September 26th 1928.

Q.—This letter was addressed to you as an officer of the Capital Trust?

A.—To the company.

30 Q.—At all events, this letter refers to “ a correspondence of yesterday morning ”, that is September 25th 1928; were you present at that conference?

A.—I think I was. I do not remember if I was present at this particular meeting. I was present on several occasions, but I cannot tell you if I was present at that one.

Q.—That conference took place naturally at the office of the Counsel or Solicitor of the Capital Trust?

A.—For the estate Quinlan.

Q.—Your answer is yes?

40 A.—Yes, as far as I can remember — can I see that letter again? — Yes, I am pretty sure I was present at this meeting.

Q.—I understand that at the conference which you had on the 25th of September 1928, that you decided with the Counsel of the estate the methods to be adopted in reference to the matters which were submitted at that conference?

Counsel for Defendant objects to any evidence of any communications between the Counsel for the executors and the Executors as being illegal and inadmissible.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Objection reserved in the absence of the Judge.

Counsel for Defendant reserving his right to have the answer rejected from the record by the trial Judge.

10

(Under reserve).

A.—Several questions were discussed which are referred in the letter; as I have not the letter before me I cannot exactly state all the questions, but the letter referred to will actually mention all the matters discussed at that date. This letter refers only to two matters, I understand.

20

Mr. Campbell, K.C.:—This extract you mean.

Q.—I understand from that extract that the Counsel for the estate advised you to try, if possible, to find the original of a letter referred to in that abstract?

A.—That is what it says in that letter.

Q.—Did you try?

A.—Yes.

Q.—Did you succeed?

A.—Yes.

30 Q.—In exhibit P-C-18, which is your file 24-A, you mention that you are not including the letters exchanged with the Estate's solicitor?

A.—The files that I have produced are in two series and the reason why the letters from Hon. J. L. Perron or his office are excluded is because, at that time, the judgment had not been rendered, but the second series that I have filed includes these letters.

Q.—Those files are complete, are they not?

40 A.—I do not think..... if I remember well, we were asked to produce certain letters, not all the letters of detail; if I remember there were letters not important at all that were left over.

The present examination is continued sine-die and further, for the present, deponent saith not.

G. Chamberland,  
Stenographer.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Continuation of the examination on discovery of Mr. Parent, at the office of Messrs. Campbell & Co.

On this 25th day of June, nineteen hundred and thirty, personally came and reappeared: Mr. L. A. Parent, a witness already examined in this case and recalled, who, under the same oath already given do depose and say :

Examined by Mr. Jacques Désaulniers, attorney for Plaintiffs :—

Q.—I wish to clear up a point concerning your last examination on Discovery. In that examination, under file No. P-C-23 was filed a letter which is an abstract of a letter from Messrs. Perron & Co. concerning this Estate, and which states in the first paragraph the following : “ Try if possible to find the original of the letter of the 20th of June 1927 from the late Mr. Hugh Quinlan to A. W. Robertson ”, and on page 96 of your examination you said that you had tried to find it and that you had succeeded; I think you meant not a letter from Mr. Quinlan to Mr. Robertson but a letter from Mr. Robertson to Mr. Quinlan of the same date?

A.—That is correct, of which I already produced a copy.

Q.—When Mr. Désaulniers was in Ottawa Tuesday and Wednesday of last week, he was shown a file called “ Important Documents; ” in which this letter from Mr. Robertson to Mr. Quinlan was acknowledged as having been received on December Seventh (7th) 1928; will you tell me if you got that letter the date it was stamped on the letter?

A.—The entry in the ledger means that that is the date the document has been recorded, it does not always mean the date it has been received.

Q.—As a matter of fact, did you tell me or did you not that you had received that letter if not on the day recorded only a day or so previous?

A.—I think I can file the acknowledgement of that letter.

Q.—You mean the original?

A.—Yes.

Q.—But you have not filed it in your examination, that letter acknowledging this letter?

A.—I do not think I was asked to produce it.

Q.—Have you an idea when you got it?

A.—At about that date.

Q.—About the 7th of December 1928?

A.—It is only a question of days, it is only a question of a few days. I could produce that letter if you like.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Did you receive that letter by mail?

A.—I am not quite sure if it was sent to me, I think it was sent to Dr. Connolly; whether he got it here in Montreal, I am not quite sure. I do not think the file will show that.

10 Q.—But you got it about that time?

A.—Yes.

Q.—And you cannot say whether you received it by mail or whether it was given to you by Dr. Connolly?

A.—No.

Q.—Did you receive that letter in Ottawa or in Montreal?

A.—It was Dr. Connolly's file acknowledging it; I do not remember whether he got it in Montreal or if it was mailed to him; as far as I remember, Dr. Connolly acknowledged it himself. Whether it was given to him or received by mail, I could not say.

20 Q.—So the file that you brought concerning Quinlan, Robertson & Janin Limited or the Amiesite Companies was not complete if the letter of Dr. Connolly was absent from the record?

A.—That is after the date of the writ.

Q.—You mean to say that Dr. Connolly's acknowledgment would be dated after the date of the writ in this case?

A.—I do not know, but I will have to look it up.

Q.—That would be the reason why it was missing in the file that you produced?

30 A.—It was put on the file the date we received it.

Q.—That is the reason why it was missing in the file that you produced on Discovery?

A.—I do not know on what file it was, on what file Dr. Connolly's letter was filed, until I find it. It may not be on one of the files that I brought in. I think I could find that file right away, if Mr. Campbell has no objection.

40 Counsel for Defendant, The Capital Trust Co. Ltd, objects to any evidence of any facts occurring since the service of the action.

Objection reserved in the absence of the Judge.

Q.—Will you file as exhibit P-C-33 certified copy of a letter to Mr. A. W. Robertson, from B. G. Connolly, Managing Director, dated December 6th 1928. I understand the person who signed this letter on December 6th 1928, Mr. B. G. Connolly, is the Managing Director of the Capital Trust Co.?

A.—Yes.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

(Document filed under reserve of the objection).

Q.—The first time you had knowledge of that letter was by the receipt of the original to which exhibit P-C-33 refers?

10 A.—No, I had knowledge of it before.

Q.—You saw it before?

A.—You mean this letter?

Q.—Mr. Robertson's letter?

A.—I saw Mr. Robertson's letter for the first time. I think it was on the 9th of July 1927.

Q.—I understand that Mr. Robertson had the letter in his possession when you saw it first?

A.—Yes.

20 Q.—And Mr. Robertson is the only one that gave you communication of it before the Capital Trust Co. received it in December 7th 1928?

A.—It was shown to me with Dr. Connolly on the 9th July 1927.

Q.—And the one that has shown it to you is Mr. Robertson?

A.—Yes.

Q.—And this is at the time you made the inventory?

A.—The same day.

30 Q.—And at the time you made the inventory of the papers of the estate, Mr. Robertson showed you a letter which he had in his possession, the letter of June 20th 1927?

A.—Yes, sir.

Q.—But he kept it in his possession after?

A.—He did, yes.

Q.—The only one that gave you communication of the letter is Mr. Robertson personally?

A.—Yes, as far as I can remember.

Q.—No one else?

A.—No.

40 Q.—On that date, the 9th of July 1927, you had not seen the letter before?

A.—No.

Q.—This was the first time you had seen this letter?

A.—Yes.

Q.—When did you come to Montreal to make the inventory of the Estate?

A.—It was on the 9th of July, as far as I can remember.

Q.—1927?

A.—Yes.

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Q.—I understand that you took possession of all papers of the estate and that you brought that to Ottawa?

A.—Everything that we could find that day; we did not take possession of the Safety Deposit Box.

10 Q.—But all papers of the estate available were brought with you at Ottawa?

A.—Yes.

Q.—The Capital Trust was taking possession of them and kept them?

A.—Yes.

Q.—And any other papers that were found in the future pertaining to the estate's affairs were also handed over to the Capital Trust?

A.—By either Mr. Robertson or Mr. Leamy.

20 Q.—And the first time you got possession of the letter of June 20th 1927, to which P-C-33 refers, was on the 6th of December 1928?

A.—That is what Dr. Connolly's letter says.

Q.—And the Capital Trust got possession of that letter for the first time on the 6th of December 1928?

A.—As far as I know, from Mr. Connolly's letter.

Q.—And between that date, from the 9th of July 1927 up to December 6th 1928, Mr. Robertson kept that letter in his possession?

30 A.—I presume so.

Q.—But you never had it yourself?

A.—No.

Q.—And the Capital Trust did not have that letter up to that time?

A.—Not that I know of; I think that we may have had a certified copy of it.

Q.—I mean the original?

A.—The original, I am not sure.

40 Q.—You are not sure even if a certified copy had been sent you?

A.—As far as I know we had a certified copy, but we only received the original at that time.

Q.—Will you look at your file which is called "Peter Lyall & Sons Ltd." exhibit P-C-16, and tell me if you see the original of the contract or the agreement purported to have been signed by Mr. Hugh Quinlan and Mr. Robertson, dated July 2nd 1926?

A.—Yes.

*E. L. PARENT (for Plaintiffs on Discovery) Exam. in Chief.*

Q.—Will you look at the original of this agreement and will you notice that on the third last line that two words : “ Then due ” have been added between “ payment ” and “ will ”, which two words are initialled in the margin by “ A. W. R.” and  
10 “L.N.L.”

A.—I remark that.

Q.—I suppose you forgot in the certified copy filed in exhibit P-C-16 to put those initials in the margin?

A.—Apparently it is clerical error.

Q.—Will you kindly have this certified copy recopied and make an exact copy of the original which I have just exhibited to you, showing the initials in the margin?

A.—Yes, sir.

Q.—I noticed during my trip to Ottawa that several letters  
20 or documents were missing to the files that you had already filed from under P-C-5 to P-C-26. Will you kindly make certified copies of the documents or letters missing in those files in order that they can be inserted in the files in their regular numbers?

A.—I think the first request was for letters between A. W. Robertson, from Mr. Robertson to the Capital Trust.

I will make copies of such letters or documents as I can find that have been omitted from the files already produced.

Q.—Will you file the following exhibits under the following  
30 number, P-C-34, certified copies of letters or documents to be found in your A. W. Robertson Limited file?

A.—I will.

Q.—Will you file as P-C-35 certified copies of letters and documents to be found in your Doheny and Quinlan, Robertson Limited — have you a file of that name?

A.—I do not remember.

Q.—The same thing for McNulty Realty Company;  
40 Sault au Recollet Ltd. & Power;  
National Sand & Material;  
Campbellford shops;  
Section 8, Welland Canal;  
Verdon Lots;  
Lachine Lots;  
Investment file;  
Crookston Quarries;  
Gibson Quarries;  
Insurance File;

*E. L. PARENT (for Plaintiff's on Discovery) Exam. in Chief.*

Have you filed the Dickson Bridge Works?

A.—No.

10 Q.—Ontario Club file;

Income tax file;

Notes, J. T. Kelly; Important documents file.

A.—I do not think that there are files for all those names that you just mentioned; I will have those looked up and if any exist I will have copies made which will be filed as exhibits.

20 Q.—I would also like to have a certified copy made of “Capital account” but only for your General Estate’s ledger?

A.—I will.

Q.—Will you also produce your Legal Fees file; 605, General Correspondence.

Q.—Until what dates will those files cover?

A.—Those files will cover all documents up to the date of the service of the action.

Q.—Will you file as exhibit all papers and documents subsequent to the action pertaining to business undertaken before the action and which are pertinent to the contestation in this case?

30 Counsel for Defendant objects to the introduction of any evidence of any facts which have occurred or arisen since service of the proceedings.

A.—Under reserve of the Counsel’s objection, I will have copies of this correspondence and documents made and sent to Mr. Campbell and you can arrange with him whether they are to go into the record or not.

And further for the present deponent saith not.

40 This examination is continued sine-die.

G. Chamberland,  
Stenographer.



DOMINION OF CANADA

**IN THE SUPREME COURT OF CANADA**

(OTTAWA)

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On appeal from a Judgment of the Court of King's  
Bench, in appeal.

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**Angus William Robertson,**

(Defendant in the Superior Court and Appellant in the  
Court of King's Bench, in appeal),

APPELLANT.

— and —

**Ethel Quinlan, & vir, & al.**

(Plaintiff's in the Superior Court and Respondents in  
the Court of King's Bench, in appeal),

RESPONDENTS.

— and —

**Capital Trust Corporation Limited,**

(Defendant in the Superior Court),

— and —

**Dame Catherine Ryan, & al.**

MIS-EN-CAUSE.

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**THE CASE**

VOL. II. — PLAINTIFF'S EVIDENCE ON  
DISCOVERY (continued)

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