

54, 1938

## In the Privy Council

ON APPEAL FROM THE COURT OF APPEAL  
FOR BRITISH COLUMBIA

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BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID  
(Plaintiffs) Appellants

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD  
(Defendant) Respondent

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# RECORD OF PROCEEDINGS

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Messrs. Davis, Pugh, Davis, Hossie & Lett,  
Solicitors for the (Plaintiffs) Appellants

Messrs. Maitland, Maitland, Remnant & Hutcheson,  
Solicitors for the (Defendant) Respondent

J. W. deB. Farris, Esq., K.C.,  
Counsel for the Attorney-General of  
British Columbia.

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# In the Supreme Court of British Columbia

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RECORD

*In the  
Supreme Court  
of British  
Columbia*

---

No. 1

Endorsement  
on Writ  
Nov. 12, 1936

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID,  
Plaintiffs,

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD,  
Defendant.

---

No. 1

## ENDORSEMENT ON WRIT

10

The Plaintiffs' claim against the Defendant is for a declaration that the plaintiffs are under no obligation to register with or obtain licenses from the Defendant or to pay any license fees demanded by the Defendant or to comply with any rules, regulations and/or orders made or issued by the Defendant, or to comply with any demands made by the Defendant under authority of the Natural Products Marketing (British Columbia) Act as amended by the Natural Products Marketing (British Columbia) Act Amendment Act 1936.

20

And for an injunction to restrain the Defendant from collecting from the Plaintiffs or any of them any license fees or otherwise interfering with the Plaintiffs in the marketing within the Province of British Columbia of milk and/or products manufactured from milk produced in British Columbia.

And for a declaration that the Natural Products Marketing (British Columbia) Act and the Natural Products Marketing (British Columbia) Act Amendment Act 1936 are ultra vires of the Legislature of the Province of British Columbia.

And for costs.

STATEMENT OF CLAIM

In the  
Supreme Court  
of British  
Columbia

WRIT ISSUED NOVEMBER 12th, 1936.

No. 2  
Statement  
of Claim  
Nov. 26, 1936

1. The Plaintiff, Shannon, is a dairy farmer residing and conducting his business at Cloverdale, in the the Province of British Columbia.

2. The Plaintiff McDonald, is a dairy farmer residing and conducting his business at Chilliwack, in the Province of British Columbia.

3. The Plaintiff, McDermid, is a dairy farmer residing and conducting his business at R.R. 1 Eburne, in the Province of British Columbia. 10

4. The Defendant is a Board created pursuant to the Natural Products Marketing (British Columbia) Act being Chapter 38 of the Statutes of British Columbia 1934 as amended by the Natural Products Marketing (British Columbia) Act Amendment Act 1936 being Chapter 74 of the Statutes of British Columbia 1936 (hereinafter called "the British Columbia Act").

5. Under date of October 27th, 1936, the Honourable the Minister of Agriculture for the Province of British Columbia purporting to act under the authority of the British Columbia Act caused to be published with the approval of the Lieutenant-Governor-in-Council a scheme to regulate the marketing of milk and products processed or manufactured wholly or chiefly from milk and produced in a described area of the Province of British Columbia, which said scheme is set forth in pages 1793 to 1795 both inclusive of the British Columbia Gazette, published on October 29th, 1936, and exceeds three folios in length and will be referred to at length on the trial of this action. 20

6. Under the Order-in-Council referred to in paragraph 5 above the Defendant was set up as a Board and William J. Park, William T. McArthur and Thomas M. Edwards were appointed to be the Members of the said Board. 30

7. The Defendant has from time to time issued and promulgated certain orders and certain orders have been made and issued by Messrs. Park, McArthur and Edwards purporting to exercise authority under the British Columbia Act which said orders exceed three folios in length and will be referred to at length on the trial of this action.

8. By the said orders the Defendant seeks to exercise jurisdiction over the marketing of milk in the area described in the said Order-in-Council and inter alia has ordered all persons including the Plaintiffs engaged in the production, processing, manufacturing or marketing of milk within the area described in the said Order-in-Council to register with and obtain licenses 40

from the Defendant and to pay license fees to the Defendant and have thus and otherwise attempted to interfere with the business and operations of producers of and dealers in milk including the Plaintiffs.

9. The Plaintiffs have refused to register with or obtain licenses from the Defendant or to pay license fees to the Defendant on the ground that the said Orders of the Defendant are improper, illegal and ultra vires and the Plaintiffs are under no obligation to comply therewith.

10 10. The Plaintiffs say that the Natural Products Marketing (British Columbia) Act and the Natural Products Marketing (British Columbia) Act Amendment Act 1936 are ultra vires and beyond the competence of the Legislature of the Province of British Columbia to enact.

11. All milk produced by the Plaintiffs is produced and sold within the described area of the Province of British Columbia.

#### WHEREFORE THE PLAINTIFFS CLAIM:

20 (a) A declaration that the Natural Products Marketing (British Columbia) Act and the Natural Products Marketing (British Columbia) Act Amendment Act 1936 are ultra vires of the Legislature of the Province of British Columbia.

(b) A declaration that they are under no obligation to register with or obtain licenses from the Defendant or to pay any license fees or other charges levied or demanded by the Defendant or otherwise to comply with any rules, regulations and/or orders made or issued or to be made or issued by the Defendant nor to comply with any demands from the Defendant under the authority of the Natural Products Marketing (British  
30 Columbia) Act and/or the Natural Products Marketing (British Columbia) Act Amendment Act 1936.

(c) An injunction to restrain the Defendant from collecting from the Plaintiffs or either of them any license fees or other charges, or otherwise interfering with the Plaintiffs in the marketing, within the Province of British Columbia, of milk and/or products manufactured from milk produced in British Columbia.

(d) The costs of this action.

40 (e) Such further or other relief as to this Honourable Court may seem meet.

PLACE OF TRIAL, VANCOUVER, B.C.

Dated at Vancouver, B.C., this 26th day of November, A.D. 1936.

“GHENT DAVIS,”

Solicitor for the Plaintiffs.

RECORD

—  
*In the  
Supreme Court  
of British  
Columbia*

—  
No. 2  
Statement  
of Claim  
Nov. 26, 1936  
(Cont'd)

RECORD  
 —  
*In the  
 Supreme Court  
 of British  
 Columbia*

DELIVERED by Ghent Davis, of the firm of Davis & Co.,  
 whose place of business and address for service is 6th floor, Royal  
 Trust Building, 626 Pender Street West, Vancouver, B.C.  
 To the Defendant,  
 AND to R. L. Maitland, Esq., K.C., its Solicitor.

—  
 No. 3  
 Defence  
 Dec. 4, 1936

—  
 No. 3  
 DEFENCE

1. The Defendant denies specifically each and every allegation of fact contained in paragraph 1 of the Statement of Claim herein. 10
2. The Defendant denies specifically each and every allegation of fact contained in paragraph 2 of the Statement of Claim herein.
3. The Defendant denies specifically each and every allegation of fact contained in paragraph 3 of the Statement of Claim herein.
4. The Defendant admits the allegations of fact contained in paragraph 4 of the Statement of Claim herein.
5. The Defendant admits that on or about the 27th day of October A.D. 1936 the Honourable the Minister of Agriculture for the Province of British Columbia caused to be published with the approval of the Lieutenant-Governor-in-Council a Scheme for the marketing of milk and milk products produced in the described area of the Province of British Columbia, but save as herein admitted, denies the allegations of fact contained in paragraph 5 of the Statement of Claim herein. 20
6. The said Scheme so published was duly established by the Lieutenant-Governor-in-Council pursuant to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts, and the Defendant was duly constituted a Marketing Board to administer the said Scheme pursuant to the provisions of the said Act and Amending Acts. 30
7. The Defendant admits that W. J. Park, W. T. McArthur and Thomas M. Edwards were duly appointed to be the members of the Defendant Board, but save as herein admitted denies the allegations of fact contained in paragraph 6 of the Statement of Claim herein.
8. The Defendant Board has made and issued certain Orders pursuant to the powers vested in it by the said Scheme and the said Act and Amending Acts and the Regulations duly made thereunder, but save as herein admitted, the Defendant denies specifically the allegations of fact contained in paragraph 7 of the Statement of Claim herein. 40
9. The Defendant denies specifically each and every allegation

tion of fact contained in paragraph 8 of the Statement of Claim herein.

10. The Defendant admits that the Plaintiffs have refused to register with or obtain licences from the Defendant or to pay licence fees to the Defendant, but save as herein admitted, the Defendant denies the allegations of fact contained in paragraph 9 of the Statement of Claim herein.

11. The Defendant joins issue with the Plaintiffs on paragraph 10 of the Statement of Claim herein.

12. The Defendant admits the allegations of fact contained in paragraph 11 of the Statement of Claim herein.

DATED at Vancouver, B.C., this 4th day of December, A.D. 1936.

“R. L. MAITLAND,”

Solicitor for Defendant.

DELIVERED by ROYAL LETHINGTON MAITLAND, of the firm of Maitland, Maitland, Remnant & Hutcheson, whose place of business and address for service is at Room 902 Royal Trust Building, 626 Pender Street West, Vancouver, B.C. To the Plaintiffs.

RECORD

*In the  
Supreme Court  
of British  
Columbia*

No. 3  
Defence  
Dec. 4, 1936  
(Cont'd)

No. 4

PROCEEDINGS AT TRIAL

D. N. HOSSIE, Esq., K.C., and J. E. T. McMULLEN, Esq., appearing for Plaintiffs.

R. L. MAITLAND, Esq., K.C., and J. G. A. HUTCHESON, Esq., appearing for Defendant.

C. W. CRAIG, Esq., K.C., appearing for Attorney General of British Columbia.

MR. MAITLAND: The record starts from here, I take it, my lord?

THE COURT: Yes.

MR. HOSSIE: This is an action brought by three milk producers in the area known as the Fraser Valley District, British Columbia, against a Board known as the Lower Mainland Dairy Products Board, for a declaration that the Natural Products Marketing (British Columbia) Act of 1934 and the Natural Products Marketing (British Columbia) Amending Act passed at the first session of 1936 are ultra vires of the Legislature of this Province.

THE COURT: Was that Act only amended once?

MR. HOSSIE: The Act was amended twice. The Act was amended in 1936 a second time on the 20th November, 1936.

THE COURT: The second amendment does not arise in this action?

MR. MAITLAND: Oh, yes, it may.

No. 4  
Proceedings  
at Trial  
Feb. 16, 1937

RECORD

—  
*In the  
 Supreme Court  
 of British  
 Columbia*

—  
 No. 4  
 Proceedings  
 at Trial  
 Feb. 16, 1937  
 (Cont'd)

MR. HOSSIE: The second amendment is referred to as the "Natural Products Marketing (British Columbia) Act Amendment Act 1936 (Second Session)."

THE COURT: That was passed subsequent to the writ in this case?

MR. HOSSIE: The writ was issued on the 12th November. The amending Act was passed on the the 20th November. The Act and its amendments are the same amended Act that was dealt with by your Lordship in the action of *Hayward v. B. C. Lower Mainland Dairy Board*, an action which was just before your lordship. It is the same Act identically in both cases. As at the 12th November there was the original Act of 1934 as amended by the 1936 amendment which had been in force since the spring of 1936. The old Boards, B. C. Lower Mainland Dairy Products Board and the Dominion Board, carried on until the 12th November, when a new Scheme was put into effect as if the Act was still carrying on. A new Scheme was put into effect, effective as of the 12th November, and a third Board created which is distinguished by the fact that it starts with the word "Lower." It has neither "B.C." nor "British Columbia" as the beginning of its name. 10

THE COURT: 12th November, 1936?

MR. HOSSIE: Yes. But in the original Act of 1934 the milk business in the area described in the Scheme, which is the Lower Mainland of British Columbia, Fraser Valley, tributary to Vancouver, the milk business therein was administered by a Board known as B. C. Lower Mainland Dairy Products Board, set up under this same Act of 1934 and that was amended in 1936, and carried on under the Act as amended thereafter.

MR. MAITLAND: After the 1936 amendment. 30

MR. HOSSIE: Yes, carried on after the 1936 amendment, which was in the spring of 1936. Then in 1936, in October, a new Order-in-Council was passed, a new Scheme promulgating a new Board was set up, super-imposed upon the other. The other Board is still there. The new Board is now carrying on under the new Scheme which involved licensing. The broad distinction between the two was that under the original Board, under the Act as it stood with its first amendment, the B. C. Board received its money from the Dominion Board, that money having been collected from the producers by means of levy, and collected by the British Columbia Board as well. The Dominion Act having now been held ultra vires, that Board is gone, having carried on for about a year and a half. The new Board was created and the new Board seeks to raise its own money by means of licensing the same producers, so that the money which would be used for the purpose of regimenting the milk business 40

in this area under the new Board would be recovered from licence fees instead of from levies. The same work identically has been carried on by the new Board so far under the same Act, and on the date of this writ, the 12th November, they were functioning under exactly the same Act and the same amendments as the old Board was evidently under up to that date. The third amendment subsequent to the issue of this writ, which may have some effect upon the Act itself, but the point that I am making is that the defendant in this action started operations under identically the same statute as was before your lordship in the Hayward action, and the same amendment.

**THE COURT:** But with this difference, that under the Act that prevailed at the time of the Hayward action the Provincial Board had no power to licence—had it?

**MR. HOSSIE:** Oh, yes, it had power to licence. It had exactly the same power. It did licence, as your lordship saw in the Hayward action. Everyone was licenced, and people were prosecuted for not taking out a licence. The only difference was that the licence was issued free gratis and no money was charged for it. Now the Board, which is the defendant in this action, this Board charges an amount of money which is the equivalent of the old levy, roughly the equivalent. It is balanced out in even \$5, but the producers are expected to contribute some \$50,000 odd to the expenses of this new Board. One other difference is that the licence under the new Board is an annual licence for the Board year. It is given for one year, and under the old one it was given for a longer period.

I call Mr. Shannon, the first-named plaintiff in this action.

RECORD  
—  
*In the  
Supreme Court  
of British  
Columbia*  
—  
No. 4  
Proceedings  
at Trial  
Feb. 16, 1937  
(Cont'd)

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No. 5

30 **GEORGE WALKEM SHANNON**, one of the Plaintiffs herein, being first duly sworn, testified as follows: Plaintiffs' Case  
—  
No. 5

**DIRECT EXAMINATION BY MR. HOSSIE:**

Q. Mr. Shannon, you live near Langley, I believe? A. Yes.  
Cloverdale.

Q. Fraser Valley? A. Yes.

Q. Near Vancouver? A. Yes.

Q. In this area which is described as the Milk Control Area? A. Yes.

40 Q. You are engaged in the dairy business? A. Yes.

Q. To what extent? A. We are milking somewhere around—

Direct  
Examination  
Feb. 16, 1937



RECORD

In the  
Supreme Court  
of British  
Columbia

Plaintiffs' Case

No. 5  
G. W. Shannon  
Direct  
Examination  
Feb. 16, 1937

Q. When you say "we" who are "we"? A. I beg your pardon?

Q. You used the term "We." A. My brothers, that is the firm, me and my brothers—Shannon Brothers.

Q. You carry on business under the firm name Shannon Brothers? A. Yes, Shannon Brothers. Around 35 to 38 cows, what we milk, and our milk is—we bottle it all at the farm, I might say.

MR. MAITLAND: Just a moment. Where is this relevant under the statement of claim? I am looking at the statement of claim. This Scheme was published with the approval of the Lieutenant-Governor-in-Council. That is paragraph 5. Then paragraph 6 (reading), 7 (reading), 8 (reading), 9 (reading), 10 (reading). Now why does the history of this man's operations as a farmer become evidence under these pleadings? 10

MR. HOSSIE: My lord, this witness in order to obtain a declaration from your lordship must show that he is interested, and I am merely showing that fact.

THE COURT: Yes, but I think you could show it without great detail. I am not going to stop you from showing that he is a dairyman carrying on within the area and that in the natural course of events he would require to take out a licence. Those things are relevant, but they can be put in very brief form. 20

MR. HOSSIE: Well, that is merely all I was seeking to show. I want to show that this man had more than one cow.

THE COURT: In other words, he is a dairyman of substance?

MR. HOSSIE: Exactly.

Q. How long have you been engaged in the dairy business in that location? A. Somewhere about 35 years in that neighbourhood. 30

Q. You and your brothers together? A. Yes.

Q. Now during that time you have operated then under the British Columbia Milk Act, under the B. C. Lower Mainland Dairy Products Board? A. Yes.

Q. And you are still operating there? A. Yes.

Q. You were operating then throughout the winter of 1936? A. Yes.

Q. 1935? A. Yes.

Q. 1934? A. Yes. 40

Q. Continuously? A. Yes.

Q. During the period since the 12th November, 1936, Mr. Shannon, have you had any—or rather, before or after that date, have you had any demand made upon you by the defendant in this action, Lower Mainland Dairy Products Board? A. Yes.

MR. MAITLAND: Were they in writing? If they were in writing I want the writing produced.

THE COURT: Well, let us find out whether there were any first.

THE WITNESS: The demand were made for—that we was to contribute \$10 for the pool—

THE COURT: Demands were made. That is the first thing. That is what Mr. Hossie wants to know.

MR. HOSSIE: Q. You received this notice, did you? (showing document). A. Yes.

Q. And attached to it did you receive this document, or did you receive that separately? A. Yes, that is the—

Q. You received both the demand and the form for— A. Yes.

MR. MAITLAND: Is that registration?

MR. HOSSIE: Yes. I will put in, my lord, the notice dated October 28, 1936, by the Lower Mainland Dairy Products Board—from the defendant.

THE COURT: To whom, Mr. Hossie?

MR. HOSSIE: “Important Notice to Producers.”

THE COURT: It is a circular notice, is it?

MR. HOSSIE: That is all it says—“Important Notice to Producers.”

THE COURT: Not addressed to this witness?

MR. HOSSIE: No, not addressed to this witness, but he received it.

(NOTICE MARKED EXHIBIT No. 1)

MR. HOSSIE: Shall I read this, your lordship?

THE COURT: Yes, you may read it so that I will get the tenor of it.

MR. HOSSIE: (reading exhibit 1). Exhibit 2 will be the enclosure therewith, which reads as follows (reading).

(APPLICATION FORM MARKED EXHIBIT No. 2)

Q. By the way, what is the grade of your dairy? A. Grade A.

Q. Is that the highest grade? A. The highest grade that is.

Q. What time did you receive this notice? A. This would be in the end of October.

Q. At that time did you have a licence under the Milk Act? A. We did.

Q. Is this— A. Yes; also a City licence.

MR. MAITLAND: Now, my lord, I am objecting to all this. I know of nothing on the pleadings that sets up this situa-

RECORD

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*In the  
Supreme Court  
of British  
Columbia*

—  
Plaintiff's Case

—  
No. 5  
G. W. Shannon  
Direct  
Examination  
(Cont'd)

RECORD  
—  
*In the  
Supreme Court  
of British  
Columbia*  
—  
Plaintiffs' Case  
—  
No. 5  
G. W. Shannon  
Direct  
Examination  
(Cont'd)

tion. Here is a licence being put in under what my friend calls the old Milk Act, whatever that means, and I know of no way that that can be introduced as evidence in this case, and I submit it cannot be. There is nothing in the pleadings setting up anything of this kind at all. If there had been, we might have changed our whole case.

MR. HOSSIE: I submit it is a relevant thing when the Act which is attacked in this action is the British Columbia Act of 1934 and its amendments. At the date, in October 1936, there was only one amendment to the Act, and there was then a Scheme in force and this man was licenced as producer under this very Act. Now another demand is made upon him while the existing licence is still in effect—another demand is made upon him, and I submit I am entitled to show that fact.

10

MR. MAITLAND: All I want my learned friend is to show me where that is covered by these pleadings.

THE COURT: When the amendment was passed did it repeal the section under which the previous licence had been issued?

MR. HOSSIE: No, my lord. The licence was issued by the Board. The same Board carried on. That is, the old Lower Mainland Dairy Products Board started in 1934, and it is still carrying on. The Lower Mainland Dairy Products Board superimposed upon that in October 1936—

20

THE COURT: Had the previous licence expired?

MR. HOSSIE: No, the previous licence was still extant.

THE COURT: Licence issued under this statute?

MR. HOSSIE: The licence was issued by a corporation set up under this statute to control the milk of this very area.

MR. CRAIG: My lord, may I point out that the last amendment does repeal Section 4(a) of the Act on which the licences were previously granted, and it provides for a different kind of licence.

30

MR. HOSSIE: Which amendment is that you are referring to now?

MR. CRAIG: Second session.

MR. HOSSIE: The second session had not been held at that time when this demand was made. My friend has the Act in front of him. You will find it was passed and assented to on the 19th November. Three weeks before that the defendant in this action was demanding a further licence, not under the second session amendment at all.

40

MR. CRAIG: Anyway, I think there is no issue raised in the pleadings here about one demand for licence being invalid because another licence has never been given. That is not raised at all.

THE COURT: Let me ask you, Mr. Hossie, under what section of the old Act was the licence to which the witness has just referred issued?

MR. HOSSIE: That is a question which the Board itself can best answer, because all I can say is—Perhaps the best way I can answer it is this, that the licence was issued by the B. C. Lower Mainland Dairy Products Board, which is the Board set up under the order in council of November 21, 1934. But there wasn't any amendment. They were exercising all the powers of the original Act as it then stood. There was no change made in the constitution of the B. C. Lower Mainland Dairy Products Board.

THE COURT: Now, Mr. Hossie, by virtue of Chapter 34 of the first session of 1936, Section 4 of the Act was repealed. Section 4 of the Act as repealed leaves certain powers to the Provincial Board (reading sections of Natural Products Marketing (British Columbia) Act, 1934.) Doubtless it was under that section, and under section 8, that the Board was empowered to issue licences free of charge under the original Act. Now section 4 was repealed absolutely and re-enacted at the first session of 1936. Sub-section (2) of section 4 empowers the Lieutenant-Governor-in-council from time to time to establish, amend and revoke Schemes for the regulation of the marketing of natural products, and may constitute marketing boards to administer such schemes, and may vest in those boards, respectively, any powers considered necessary or advisable to enable them effectively to regulate, control, or prohibit the marketing of any natural product. Now did the Lieutenant-Governor-in-council, pursuant to section 4 (2), repeal or amend the then existing Scheme?

MR. HOSSIE: No, my lord. Passed another one.

THE COURT: Have I got a copy of it here? I would like to see it. I think the situation would be that the old Board did not lapse by reason of the repeal of section 4, in view of the language of the amendment. The old Board, it seems to me, probably continued until repealed or disestablished by virtue of the powers contained in the amending section, and the substituting section. That not having been done, this man would still be a licensee of the old Board. And now we are faced with the concrete question which Mr. Maitland raised, namely, is it relevant under the pleadings?

MR. MAITLAND: My lord, if your lordship would look at 5 of the statement of claim, your lordship will see—(reading paragraph 5). That is the Scheme, of course, of the 27th October, 1936. Then paragraph 6 gives the Board which was set up; 7, the orders that this Board which was set up passed; paragraph

RECORD

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In the  
Supreme Court  
of British  
Columbia

—  
Plaintiffs' Case

—  
No. 5  
G. W. Shannon  
Direct  
Examination  
(Cont'd)

RECORD  
 —  
*In the*  
*Supreme Court*  
*of British*  
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8 (reading); paragraph 9 (reading). And then they come to the declaration, and what is the declaration they ask for in this case? A declaration that they are under no obligation to register or obtain licences or to pay any licence fees, and an injunction. There is nothing in the pleadings here at all which says this man has a licence already; that he had a licence of the previous Board when the previous Board was in existence. My friend cannot come in here and tell us now something he did under another Board without a single word in the pleadings at all. Surely that is not proper pleading.

THE COURT: Well, Mr. Maitland, Mr. Hossie takes the position that this man was a licensee under this very Act at the time. He says now he is asked to take out another licence.

MR. MAITLAND: He takes that position now, but he should have taken that position when he drew his statement of claim; that is when he should have taken that position, not as an afterthought.

MR. HOSSIE: May I say this, my lord? It is not a question of afterthought. My learned friend has had this very argument up three times on this point, and these three plaintiffs were all prosecuted in the Police Court. My learned friend laid the prosecution and conducted it and has a very good personal knowledge of these things. This very point was brought up and my learned friend is fully aware—

THE COURT: That would not help matters. When he is speaking of surprise, he is speaking of surprise in the pleadings themselves. If I could see the relevancy, Mr. Hossie—I cannot see on the pleadings what difference it makes.

MR. HOSSIE: Well, I suggest this. In a declaratory action I do not have to plead how many cows this man owned, or where he lives, but that he is a producer. Now I said he was a producer, and he is properly entitled to produce, because even assuming that the old Board was validly created, he was licenced under that Board. Now he is not a bootlegger, to use a term with which we are familiar—he is not bootlegging milk in this area. He is there producing milk in the area, and he was licenced under the old Board, under the same Act. So he is a lawful producer. Perhaps my learned friend is quarrelling with the fact that I did not say he was a lawful producer.

THE COURT: You will agree that if a new statute comes along he may, to use your own words, become a bootlegger if he does not comply with the new statute?

MR. HOSSIE: Your lordship is speaking of a new statute. I will make that clear. We are not here dealing with a new statute. That is the point I have been trying to emphasize for some time, that this is not a new statute. The very Act with

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the very amendment which was passed in the spring of 1936 was still in effect, and it was the only Act under which the new Scheme was set up. There has been no change whatever on the 27th October, 1936. I quite see if a new statute had been passed that would be entirely different. But here—let me emphasize this, my lord, that there has been absolutely no change in the law of this Province, the statute law of this Province from the spring of 1936, the 1st April, 1936, until the 20th November, 1936. Now during that time this man was licenced by the Board, which was functioning under the statute law of this Province as it existed on the 1st April, and without any change. And I emphasize that without any change in the statute law of this Province then plainly I am not bound to take out another licence.

THE COURT: Well, the power that was given to a contemplated Board begins to be exercised—then the new statute comes into effect. A statute may be on the books for many years, and it is the law, and there may be something remaining to be done under the statute. If it is not done the statute is none the less valid.

MR. HOSSIE: Well, my lord, it wasn't a new statute; it was merely an amendment of the old one, and nothing had been done under it to discontinue or revoke or terminate the old Board. In effect the two Boards are set up to govern the same thing. A second Board is set up to govern the same thing, and that is one point I want to make, the one point I shall urge on your lordship later on, that this Act—dealing with the fact that it permitted duplicate, triplicate or any number of Boards to control the same product at the same time, by reason of that is in fact ultra vires. They had two, in point of fact; and I want to say that if they had two, they could have 22, or 102, boards control the same thing.

THE COURT: If you are going to take that position I think you should have raised that on the pleadings. That would be a very interesting point, and I think it should be specially set up. If you are going to say that this man was already licenced and had a perfect right to carry on, and it is a wrong exercise of power to attempt to require him to take out a licence under the new Board until such time at least as the old Board ceases to function or has been disestablished, then I think you should set that out in the pleadings.

MR. HOSSIE: That would be so if I were simply seeking a declaration, and if I were not attacking the validity of the Act. When I am attacking the validity of the Act I am entitled to show that this man was a producer and was at that time, according to the law as it stood in the statute books, properly entitled to carry on at that time. The point which your lordship has

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just put—that would be relevant in such an action. But this is not that action. I am attacking the whole validity of the Act, and I do want to show that at the time when this demand was made upon him by this Board he did have a licence under the B. C. Board.

MR. CRAIG: May I point this out? As far as I can see, there is no relevancy in my friend's point anyway, because he says he wants to prove there was a demand made upon him. Now supposing my friend is right that they had no right to make that demand. He never complied with it anyway, so what is it all about? 10

THE COURT: He says, I was justified, among other reasons, in not taking out a licence—

MR. CRAIG: Suppose he was, there is no point being raised about that. The point is whether the Act is constitutional or not.

THE COURT: I think so, Mr. Hossie. Frankly, I cannot see that it is relevant. I think it is immaterial.

MR. HOSSIE: Well, I tender this licence in evidence.

THE COURT: Yes. Well, I think I will have to rule against you on that. 20

MR. HOSSIE: The licence I am tendering is one issued under the authority of the Natural Products Marketing (British Columbia) Act, chapter 38, 1934, licence 1285, which certifies that Shannon Brothers of Cloverdale, British Columbia, dairy farmers and so on, are licenced on the 4th February, 1935.

Q. Did you have another one? A. That is the only one they ever issued us.

Q. Did you in fact make an application for a licence under this Board? A. I beg your pardon? 30

Q. Did you make an application for a licence under the Lower Mainland Dairy Products Board?

MR. MAITLAND: I am objecting to that.

THE COURT: Why do you object to that, Mr. Maitland. Surely, that is the essence of the thing. A demand was made upon him, and Mr. Hossie is now asking the witness if he complied with the demand and filled out the application.

MR. MAITLAND: I cannot see what it has got to do with this case.

MR. HOSSIE: I submit, my lord, it is entirely relevant. A demand is made upon this witness, and I am asking whether he complied with it. 40

THE COURT: I think so. Go ahead.

MR. HOSSIE: Q. This exhibit 2—exhibits 1 and 2 constituted a demand upon Shannon Brothers, of whom you are one partner—? A. Yes.

Q. —to take out a licence under the new Milk Board?

A. Yes.

Q. The defendant in this action, the Lower Mainland Dairy Products Board. A. Yes.

Q. Did you make an application for a licence under the new Board? A. No.

Q. And it was not made by any of your brothers in the partnership? A. No.

Q. Were any further demands made upon you to take out that licence? A. Later on, would be just about the first of the year, we got notice to take out a licence again.

THE COURT: Q. First of what year—this year—first of 1937? A. 1937, yes. That was all.

MR. HOSSIE: Q. Was there anything done about your taking it out? A. No; that is, not anything further than has come up.

Q. Were you prosecuted in the Police Court?

MR. MAITLAND: That is a leading question. My friend must know that it is not proper to put it that way. I ask that that be struck from the notes; the fact that the man was prosecuted is absolutely irrelevant.

THE COURT: I think so. I think it is irrelevant. We have no jury here. We are trying something of pure law, and it is not of the least interest to me if he has been prosecuted 25 times. I do not think it has got any bearing. A legal demand was made upon him, a demand made in proper form, and he said "No, I shall not take out the licence." We are down to the issue, "Am I required to take out a licence?" That is the essence of the thing.

MR. HOSSIE: I submit with deference that when the demand is followed up by process of law that he is entitled to show that; that I am entitled to adduce that in evidence, and I am not required to plead it, because it was not a fact when these pleadings were drawn. This action was started, and after this action was before the court this same Board, by the same counsel, prosecuted the three plaintiffs in this action, and I think I am entitled to show that the demand was made not only once or twice, but made three times, and backed up with a penalty.

THE COURT: That does not make it a bit stronger, the fact that it was made three times. I have simply noted here "Another demand was made in January 1937 and refused by me."

MR. HOSSIE: Q. To whom do you ship your milk, Mr. Shannon? A. To the Turner Dairy and the Empress.

Q. Well, through whom is it marketed at the moment? A. The Independent Producers.

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Q. The Independent Milk Producers' Co-operative Association?  
 A. Yes, Co-operative.

Q. Since the new Board, the new Milk Board, began to function—that is the one in November of 1936—

MR. MAITLAND: You mean by that this defendant?

MR. HOSSIE: Yes. Well, he does not understand the language, and that is the reason why I am rather labouring this. I do not wish to cast any aspersion on his intelligence at all.

Q. Now under the Board since November 1936 you have been still selling your milk, of course? A. Yes. 10

Q. Now how have your returns varied, if at all, since that date? A. None.

MR. MAITLAND: Just a minute, please. My learned friend may say this man does not understand, but giving his evidence he is pretty quick on the trigger when I get up to object.

MR. HOSSIE: Perhaps my friend is not quick enough.

MR. MAITLAND: Certainly I am not quick enough for some folks.

THE COURT: Go ahead.

MR. MAITLAND: Surely this has nothing to do with it 20 on these pleadings.

THE COURT: You raise your objection and I will rule on it.

MR. HOSSIE: I submit, my lord, that it is relevant to show whether or not the returns under the new Board have varied to what they were under the old Board. That may be a very relevant question. I submit that it is.

THE COURT: Tell me how it can be relevant?

MR. HOSSIE: Well, I find it rather embarrassing to argue my case with the witness in the box, but your lordship insists. 30 There is one phase of it, for instance, that may exemplify it. Supposing it were a fact, my lord, that under the new Board the price of milk had gone up, we will say, to the consumers without any corresponding return, and they could show that as a fact. I submit that is relevant and I am entitled to put in all the facts which would enable your lordship to judge on that question.

THE COURT: What do you say to that?

MR. MAITLAND: Haven't we argued that out the other day? I say these facts are not relevant. What we are discussing 40 here is purely a constitutional question, not what happened in particular cases. I don't see the difference in Caledonian Collieries case, the fuel oil case, the Crystal Dairy case. This really has nothing to do with it. The whole thing is, here is the statute, the court looks at that statute and says whether or not it is ultra vires. Now how it works out in a particular instance—

THE COURT: Let us put the converse of that, Mr. Maitland. I am not as familiar with that as you are. Put it the converse way. Is it not proper for me to have to know what happened in a particular case to perhaps guide me in a conclusion as to what might happen generally?

MR. MAITLAND: My lord, I would say the very opposite in view of the authorities. I would say the very opposite, and I am saying that with all respect. But what I am trying to impress is that it is very dangerous kind of evidence to introduce, what  
10 happened to a particular man in his business under an Act.

THE COURT: I can see all kinds of room for uncertainty in that case, anyway.

MR. MAITLAND: I argued this the other day, and as your lordship knows, I was in the other cases. What did we get there? We got between Mr. Hayward and Mr. Gardom and the other witnesses, we got nothing but confusion about the result of these other schemes.

MR. CRAIG: I have a further reason, my lord, that there are no facts—that the facts my learned friend is relying on to  
20 prove something, he should allege them.

THE COURT: I do not know that he would be called upon to allege that in his pleadings, Mr. Craig. If he takes the ground that the statute is ultra vires I think he could lead any evidence that would go to show that it is ultra vires by reason of the fact that it imposed indirect taxation. I would think that would be true. I don't think he need to allege evidence or plead the evidence.

MR. HOSSIE: My learned friend has again raised the question of the Caledonian Collieries, and I have analyzed the  
30 report of that case, and it seems to me the most that can be said about it is this, that their lordships in the Privy Council said that because evidence was led that it was practically impossible to pass on the tax, that did not mean that it must necessarily be a direct tax. In other words, that is exactly the converse of what my learned friend says. Now in the Caledonian Collieries case, reading from the report of the Court of Appeal in Alberta, which was reported in 1926, 2 W.W.R., 280—and I will read from page 290. These facts were established—reading from the judgment of Mr. Justice Clarke:

40 “It appears that there is a standard rate established from time to time by the mine operators in the Drumheller Valley where the defendant operates, varying according to the grade of the coal—”

I could read the whole page. The facts were gone into fully there, and it does not mean that the evidence is not admissible. It must be relevant to the issue.

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THE COURT: I think, Mr. Maitland, that it is a question of the weight of evidence. I think it is weight. I can see great objection to limiting the strength of the evidence, but I think it is a question of evidence that should be admissible for what it is worth.

MR. HOSSIE: Q. Mr. Shannon, under the new Board, have your returns varied at all for the same milk? A. No.

Q. That is, they are the same now that they were under the old Board? A. Yes.

THE COURT: Let me understand, Mr. Hossie. You say, 10  
"Have your returns varied under the new Board?"

MR. HOSSIE: With those of the old Board.

THE COURT: What new Board do you refer to? He is not shipping under the new Board.

MR. HOSSIE: Well, the new Board is in effect now.

THE COURT: Yes, but he isn't licenced under it, and he is not shipping through them nor getting returns from them.

MR. HOSSIE: He is not required to ship through them at the moment.

THE COURT: What you are attempting to show there is 20  
this, I take it—that since the establishment of the new Board his returns have remained the same, is that it?

MR. HOSSIE: That is all.

THE COURT: Q. That is true, witness? A. Yes.

MR. HOSSIE: Q. The same as they were under the old Board? A. Yes.

Q. And all your milk is handled through the Independent Milk Producers Association? A. Yes.

Q. They keep the books, I take it? A. Yes.

Q. What do you get as an average return? A. Well, we 30  
sell by the—that is a pound butterfat. It would run about 60 to 65 cents a pound butterfat.

Q. You are selling bottled milk? A. Bottled milk. I might say we get 26 cents a gallon for our milk.

Q. And what did you receive before the Act came into force? A. We received 24. But milk then retailed for 10 quarts a dollar and ours was selling nine quarts for the dollar.

Q. That is your milk? A. Yes, that is our milk.

Q. Yours then is above standard, is it? A. Yes. It is 40  
what they call a preferred raw. That is 4%.

Q. 4% butterfat? A. 4% butterfat.

Q. Is the price to the consumer still nine quarts for the dollar for your milk? A. Yes.

Q. It has been all through under Board control? A. Yes.

MR. HOSSIE: Thank you.

MR. MAITLAND: I would like to reserve my cross-

examination until after the adjournment. I do not know what the effect of this evidence is yet, and I want to consider it before I cross-examine, if I want to cross-examine at all on it—that is, if your lordship will permit me to.

MR. HOSSIE: I will put in some documents in the meantime, my lord.

THE COURT: That will be very satisfactory. I do not want to resume until 2:15 or 2:30.

10 MR. HOSSIE: At this point I will put in the notice which was served upon the honourable Minister of Justice, together with affidavit proving service.

(DOCUMENT MARKED EXHIBIT No. 3)

MR. HOSSIE: A similar notice, together with affidavit proving service, upon the Honourable the Attorney General of British Columbia.

(DOCUMENT MARKED EXHIBIT No. 4)

MR. HOSSIE: I put in the Scheme of November 21, 1934.

(DOCUMENT MARKED EXHIBIT No. 5)

MR. HOSSIE: And the new one, October 27, 1936.

20 (DOCUMENT MARKED EXHIBIT No. 6)

MR. MAITLAND: Well, I do not know what the relevancy is at the moment of the old Scheme to this action. I certainly object to it.

THE COURT: I thought you would, and I was just wondering why you did not.

MR. MAITLAND: Well, I am.

THE COURT: Well, what have you to say, Mr. Maitland?

30 MR. MAITLAND: I do not know what relevancy it has. There is no mention at all of that Scheme in this pleading—no mention at all.

MR. HOSSIE: That may very well be, but it is there none the less, and I submit that your lordship is entitled to look at anything which has been done under the Marketing Act of this province in order to assist your lordship in determining whether it is or is not ultra vires.

THE COURT: Have you got any more documents?

MR. HOSSIE: I will put in the minutes and orders of the Board if my learned friend will give them—

THE COURT: I will reserve the admissibility of exhibit 5.

40 MR. HOSSIE: I am asking my learned friend if he will produce the orders of the Board and the minute book, so that I

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can spend some of the time before luncheon adjournment with those.

THE COURT: You do not want to put in your examination for discovery now?

MR. HOSSIE: Well, I cannot finish it and I do not want to become involved in it at the present moment.

THE COURT: Well, I think we should adjourn. We will adjourn until 2:20.

(PROCEEDINGS ADJOURNED AT 12:35 P.M.  
 UNTIL 2:20 P.M.)

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(2:30 P.M. COURT MET PURSUANT TO ADJOURNMENT)  
 GEORGE WALKEM SHANNON Resumed the stand.

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CROSS-EXAMINATION RESUMED BY MR. MAITLAND:

MR. MAITLAND: You are still under oath. A. Yes.

MR. MAITLAND: I wasn't clear whether your lordship had ruled on the first scheme or whether you were reserving it until after lunch, or reserving it generally.

THE COURT: I reserved it; that is, as to the admissibility of the proposed Exhibit 5.

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MR. MAITLAND: Oh, yes, my lord.

THE COURT: Do you want me to rule on it now?

MR. MAITLAND: It might affect my cross-examination.

THE COURT: Well, Mr. Hossie, you had better listen to what I am going to say, because you might want to say a word or two more. With regard to the proposal that the market scheme of November 1935 as promulgated be introduced as an exhibit at this trial, I observe that in the statement of claim you plead that the constitution of the defendant Board, in paragraph 4—in paragraph 5 you plead an Order in Council of the 27th of October 1936, setting up a scheme which we have now before us as Exhibit 6. Paragraph 6 of the statement of claim does no more than to allege the personnel of the Board. Paragraph 7 alleges that this defendant, not any other Board that may have existed, but this one, the defendant in this action, promulgated certain orders; and in paragraph 8 you again allege that this defendant seeks to exercise jurisdiction over the marketing of the milk described in the Order in Council of the 27th of October last setting up this scheme, and this defendant has ordered all persons within the area—that is all the producers within the area—to register and obtain licenses. Nine is a mere allegation that the plaintiffs refused the license, and then 10, there you say that the Natural Products Marketing Act of British Columbia and the amendment of 1936, are ultra vires.

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Now in your claim you desire a declaration that the two Acts referred to are ultra vires and a declaration there is no obligation to register or to pay a license, and an injunction to restrain this defendant from collecting; and then the minor things, costs, and so forth. Now, having that before me, and no more, I confess I cannot see how we can consider the milk scheme of November 1935. If you were going to set that up as some evidence of the ultra vires character of the Act, I think you should have done so in your pleadings. I do not think the mere allegation that the Act is ultra vires—I cannot very well go into something with which this defendant had nothing to do. If it was alleged this defendant was acting under the previous scheme, it would be proper material to have before the Court.

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MR. HOSSIE: My lord, with respect to the first nine paragraphs of the statement of claim, this is the perspective in which I view the pleadings. The first nine paragraphs of the statement of claim set up the allegation which entitles these plaintiffs to a declaration.

THE COURT: Yes.

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MR. HOSSIE: Now, for that reason I only refer in those first nine paragraphs to the present scheme, because I have to show that the defendant in this action is guilty of this act, trying to make me do something which I think I don't have to do, and I think we were perhaps getting the wrong perspective because of paragraph 8. Paragraph 8 says that the defendant seeks to exercise jurisdiction, etc. I am not setting that up as a fact. It leads to the conclusion under 10, but merely as a fact that entitles me to come into this Court and ask for a declaration. These plaintiffs couldn't come in and ask for a declaration against the Registrar of this Court, for instance, under these pleadings, because he isn't trying to do anything to them.

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THE COURT: Mr. Hossie, could you not come into Court and simply without any pleading at all in the way of a statement of claim beyond a mere allegation that such an Act purported to be passed or was passed—I suppose that is the proper way to put it—and follow that with a request for declaratory judgment, and follow it with any evidence you wished to support it?

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MR. HOSSIE: In the first place he couldn't come in that way. He would have to show he was a person affected. He would have to show secondly the other party he makes to the action for the purpose of defending it was seeking to affect it. Those are the two things we have to show.

THE COURT: That is my view of it. Can you lead evidence having to do with anything except what the defendant is involved in?

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MR. HOSSIE: Oh, yes, my lord, I submit so. All you have to do is you have to show the plaintiff is interested in having it declared ultra vires and the defendant is seeking to do something under the Act declaring its validity. Then the parties get before the Court and you are testing the validity or otherwise of that Act. Once the parties are before the Court then the Court is concerned with finding out.

THE COURT: I can come away from that once you get the Attorney-General here.

MR. HOSSIE: Yes, my lord. 10

THE COURT: No matter how narrow your ground was in the first instance, when you have the Attorney-General here you can attack the Act in any way you want.

MR. HOSSIE: Yes. I am not seeking the bald declaration that the defendant has done something itself which is outside its powers. I say the Act itself is ultra vires. I gave notice to the Attorney-General to that effect and I submit the parties, once properly in Court as they are here, are entitled to adduce any evidence that would throw light on the validity or otherwise of the statute. 20

THE COURT: Is there any difference, Mr. Hossie, between these two possible positions: the Attorney-General appearing under the Constitutional Questions Determination Act, and the Attorney-General being a party to the action as a party defendant? Is there a difference in these two positions?

MR. HOSSIE: Without going into the question of what difference there might be, I would say there is none for the purpose of this particular discussion. The Attorney-General has been notified the validity of this Act is challenged, and that being so my friends will all admit it. Suppose there is no evidence at all. We could argue any hypothetical question. We are just on the Act. Then it would be open for me to say under the Act it is possible for such and such to be done. I could go into all the hypothetical cases that human ingenuity could conceive, but I say it is very relevant then to bring in the evidence of what has actually been conceived by the minds of the people involved in enforcing this Act, therefore it is relevant evidence. If I can say such and such a thing is hypothetically possible because here it is possible—here is something someone has done under the cover of this Act, apparently I could say it is possible under the Acts as they are framed by the Lieutenant-Governor in Council to set up a Board and give it certain powers, and I could, with the first scheme in my hand urge as a hypothetical proposition, that a Board could be set up and endowed with the powers, if the Act were valid, that are contained in that scheme. My ingenuity would not run quite the 30 40

length of the providers of this first scheme, but I am helped out by the fact they have actually set up such a Board and have actually endowed it with such powers.

THE COURT: If the Attorney-General were a party defendant to this action I could say then I think you could lead everything that had been done. I think you could lead evidence to bring out everything that had been done under the Act; but where you have chosen to take a citizen of the one Board which is created under one scheme, and make him a defendant, 10 have you not circumscribed yourself?

MR. HOSSIE: I think not. I think I could ask for that declaration against anyone. I could bring it against the Inspector of the Board for instance, who tells me I must do this, that and the other thing. I could start an action against him and give the Attorney-General notice. I could take Mr. Park, the Chairman of this Board and the old Board and bring an action against him, or for instance the Secretary who submitted the demand to me. I could, I submit, bring the action against him, but I have to still notify the Attorney-General and 20 go ahead. I am not limited by the nature of the particular defendant. If I did not give the notice on the Constitutional Questions Determination Act—

THE COURT: Let me see the Act.

MR. HOSSIE: Pardon me?

THE COURT: Have you the Constitutional Questions Determination Act there? And then, on top of that I want to hear Mr. Craig for the Attorney-General, and I want him to look at it as dispassionately as possible, because after all this is a point of law.

MR. CRAIG: It is just a question of law. There is no bearing in it as far as I am concerned.

MR. HOSSIE: I have sent out for a copy. Let me add this observation too: if it were necessary to add everybody—You must have a defendant before you can bring in any evidence. You have to consider beforehand the different ways the Act might be ultra vires.

THE COURT: If you have the Attorney-General you can attack anything you like. What is the number of that, do you remember? I will get it. Here it is—46.

MR. MAITLAND: Section 9, my lord, I think.

THE COURT: I do not know that it helps us a great deal. That certainly does not clarify the point.

MR. HOSSIE: Again, my lord, suppose it was a fact no attempted action had been made to enforce it by anybody, but the Board had been set up, one could bring an action against the Board, and if my friend's contention is right, you couldn't

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put in any evidence. There wouldn't be any to put in. That would be theoretical. We have the working of the Act for a year and a half, and knowing what it is I submit it is of great assistance to the Court.

MR. CRAIG: My friend is now seeking, my lord, to put in a scheme which was promulgated by the Board. It is not now being enforced.

MR. HOSSIE: That I don't admit.

THE COURT: I will draw your attention to this, Mr. Craig—it has not been repealed. It is apparently still in a position to be made operative. If it had been repealed I would have had no hesitation about this; I would say it was definitely out: but it has not been repealed. Let us proceed from that point. 10

MR. CRAIG: Nothing is being done under it anyway.

MR. HOSSIE: That, again, I cannot admit.

THE COURT: That is one of the things I do not know. All I know for the moment is something has been done under it and it has not been withdrawn. They have not said "You owe certain licenses—forget them; we do not want you to pay any more attention to it." 20

MR. CRAIG: There is no allegation made the scheme was promulgated and that scheme is bad for any reason at all. There is no such issue raised at all! The sole issue raised is, is the Act good or bad. Drawing my attention to that issue, my submission is this: the fact the Board has promulgated the scheme whether it is good or bad is no determination in deciding the question before your lordship whether the Act is good or bad. Suppose my friend succeeds in influencing your lordship it is good or bad. Suppose my friend succeeds in convincing your lordship this scheme is bad, the Act, I say once again on the issue of whether the Act itself is constitutional or not, that determination would be of no assistance whatever to your lordship. It might be my friend can convince your lordship this scheme has gone beyond the Act. The only thing is that would show the scheme is no good, but the Act isn't. There is no such issue before the Court at all. It is whether the Act itself is constitutional or not, and as I say on that issue the determination of whether this scheme is good or bad wouldn't assist you in any way whatever. If it is good it cannot make the Act bad; if the scheme is bad that cannot make the Act bad. My submission is on the issue your lordship has to determine whether the Act itself is within the powers of the Legislature, that is the point. Now, as to whether this scheme is good or bad, it is absolutely immaterial. That is the way it appears to me, my lord. 30 40

MR. HOSSIE: If my learned friend Mr. Craig understood I was arguing whether the scheme was good or bad, I have

expressed myself badly. It isn't a question of any argument as to whether the scheme is good or bad, but solely a question of fact, and it is the Act, the validity of which is challenged in this action. The authorities have promulgated a scheme which reads so and so, and which makes it possible for me to show that in fact somebody has thought fit to do this, otherwise I would have to show that theoretically it is possible for him to do so. I am concerned with the validity of this Act.

10 MR. CRAIG: If my friend says he is not concerned with whether the scheme is good or bad, how is the scheme going to assist your lordship in any way whatever with regard to the validity of the Act?

MR. HOSSIE: It shows the working of the Act.

MR. MAITLAND: My lord, I had in mind another feature which I think I should draw to your lordship's attention. In 1936 at the spring session the Act was amended and passed, and then the Board before your lordship—I will say the Board instead of the scheme for the moment—was set up. What my friend wants to put in is a scheme that was set up before the Act was  
20 amended. That is what I have been trying to guard against.

THE COURT: I see that, Mr. Maitland, quite well, but as I pointed out this morning the amendment did not go so far as to say that all things done under section 4 as it stood prior to the amendment, could cease to have any effect. The new section did not go that far. If it had, that would be the end of the matter. We certainly could not consider it.

MR. HOSSIE: May I add just this observation: it was after the amendment of the 1st of April, 1936, that the old Board, the B.C. Lower Mainland Dairy Products, carried on.  
30 They carried on without any power in their scheme whatever. They carried on until the end of November, and they are still carrying on for all we know. The amendment in the spring of 1936 did not have any effect on it. They continued to function without it. The last action we had the defendant defended its position based on the Act and its amendment.

THE COURT: I am going to admit the exhibit upon this ground, that if the promulgating of this order of November, 1935, was an act consistent with the statute, I am entitled to have it before me in order that I may search it in order to see  
40 whether the statute properly complied with would result in something that was ultra vires of the legislation being done. I think upon that ground it properly should go in. I think it is regrettable when they were cleaning up the situation they did not get rid of the old scheme. The reason probably was they wanted not to have a hiatus. I can understand that.

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MR. MAITLAND: They had to clean up some things as usual.

THE COURT: Yes. I can see the difficulty. However, I rule it is admitted under those circumstances.

MR. MAITLAND: Q. Mr. Shannon, you have been producing milk for many years I take it? A. Yes.

Q. You remember the old Dairy Sales Assessment Act that was passed in 1930? A. I do.

Q. I think you operated under that? A. Yes.

Q. And it is true under that there was a levy? A. Yes. 10

Q. Do you remember how much the levy was? A. I couldn't just say.

Q. There also was an equalization in that too, wasn't there? A. Yes.

Q. And the price of milk when that scheme came in didn't change at all to the consumer, did it?

THE COURT: You want to be very careful, Mr. Maitland.

A. I just couldn't answer that until I looked it up, on that question.

MR. MAITLAND: My friend went into prices this morning. 20

THE COURT: I know. I can see why.

MR. MAITLAND: Q. What figure did you give us this morning? Do you remember? A. What on?

Q. On what you were getting? You gave Mr. Hossie some figures this morning. Do you remember what your evidence was? A. What we were getting before this Board started, and after?

Q. Yes. A. We were getting 24c a gallon before and 26c after. 30

Q. Yes? A. But it wasn't netting us as much as the 24.

Q. There was a rate war on before, wasn't there? A. Yes.

Q. And the war stopped, and at the same time the scheme came in? A. Yes.

Q. War between these people kind of knocked your prices down a bit? A. Very little to us.

Q. It did knock it down? A. Very little. It isn't worth mentioning to us.

Q. Why do you call it a war if it isn't for the purpose of knocking the price, then? A. To tell you the truth I didn't know there was a war on as far as we were concerned. 40

Q. Why did you just tell me there was, if you didn't know? A. I say there may have been a war on, but as far as we were concerned it didn't matter enough to us. We were selling bottled milk.

Q. It only affected the consumer? A. It maybe did. I don't doubt it did affect some of the producers, but not us.

Q. It did affect the consumer too? A. I believe it did. I am not sure, but I believe it did.

Q. Do you know anything about the prices the consumers are paying for milk? A. At the present time?

Q. Yes. A. I know what they are paying for raw milk, 9 quarts for a dollar.

Q. What was it before this scheme came in? A. Ten.

10 Q. When did it change? A. Pardon?

Q. When did it change? A. It changed in the spring of 1935.

Q. This didn't come in until 1936. A. You mean the last scheme?

Q. Yes. A. We got nothing different in the last scheme.

Q. Now did the depression affect your price at all, or do you know? A. No, it didn't.

Q. Not throughout? A. No. We have been getting the same price for the last three years.

20 Q. Were you in Court yesterday? A. Yes.

Q. Did you hear me cross-examining Mr. Gardom? A. I did.

Q. I put in the monthly bulletin statistics giving the prices for Vancouver, that is for standard milk. Did you hear him give that evidence yesterday? A. I believe I did.

Q. Would you look at this Exhibit 9 in yesterday's case? Would you look at that list of prices to the consumer in Vancouver city from 1932 to 1936 and tell me whether or not you agree with what the statistical branch says the price is, and I believe Mr. Gardom agreed with it yesterday.

30 MR. HOSSIE: Have you explained to him what kind of milk that referred to?

MR. MAITLAND: Standard, 3.25. A. To tell you the truth I have never dealt with the 3.25 milk.

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

Q. All you are familiar with is one specialized milk? A. Yes, preferred raw.

Q. How many preferred raw producers are there? A. Just offhand I could not say.

40 Q. About how many? A. Indeed I couldn't answer that question. There is quite a few I understand. I would not say positively.

Q. You have no idea? A. Somewhere about 18% of the Vancouver market is raw.

Q. Would you say 18% of the producers are preferred raw? A. No, I wouldn't.

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Q. Would you say 10% of the producers are preferred raw? A. No, I don't think that many either.

Q. Would you say 5? A. Yes, I think so.

Q. Would that be a fair figure, about 5? A. Well, I couldn't say until I looked the thing up. It is something I never went into.

Q. Do you sell all your milk in bottled form? A. I sell all my milk in bottled form.

Q. By the way, is yours a special kind of milk? A. Preferred raw.

Q. Does that get a special price? A. Yes, a little extra.

Q. It is a special milk? A. A special cap, and it is tested by the City.

Q. It is a special brand of milk not everywhere? A. It is a special brand of milk. All our preferred milk is not certified.

Q. Has it a special class of customers who have to have that kind of milk or who want it for a special reason? A. There is a lot of ordinary people. I don't know of any special reason.

Q. They don't take it for any special reason? There is a little more butter fat. A. I couldn't say to that. I know a lot of ordinary people who are using it.

Q. Did you sell all your milk in bottles before the scheme came in? A. Yes.

MR. MAITLAND: All right.

## No. 7

No. 7  
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## RE-EXAMINATION BY MR. HOSSIE:

Q. What percentage of butter fat do you say your milk contains? A. 4%.

Q. And it is preferred raw? A. It is preferred raw.

Q. Is that a special term or is it classified? Who classifies it as preferred raw? Where does the term originate? A. That is what they call the second grade of raw milk; the highest grade is certified, and this is the second.

Q. Who does the grading? A. The City of Vancouver. The City of Vancouver tests for the bacteria and butter fat.

Q. Are you licensed by the city of Vancouver? A. Yes.

Q. And have been all this time? A. Yes, I have been all this time.

Q. How much butter fat did you sell in 1936? A. Just a minute—10,798 pounds.

Q. That is the total amount sold? A. That is the total amount of butter fat.

Q. Did I understand you to say 18% of the milk sold on the Vancouver market is preferred raw? A. Practically so.

Q. It isn't specially segregated; it is the preferred raw.

It is all standardized at 4%? A. They have a different grade of preferred raw milk, that is in butter fat.

Q. They have 3.25 and 4; yours is 4? A. Yes.

THE COURT: Q. Do you have 3.25 preferred raw? A. Yes, I believe they have, or 3.5 anyway. I know they have that.

MR. MAITLAND: May I ask a couple more questions.

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No. 8

RE-CROSS-EXAMINATION BY MR. MAITLAND:

10 Q. Mr. Shannon, Mr. Wheatley tells me there are only six or seven preferred producers in the area. A. There is only six or seven?

Q. Selling in Vancouver. A. We certainly do.

Q. You do disagree with that. This scheme is dated the 27th of October 1936, isn't it? The 27th of October 1936. Your returns have been the same since then? A. Practically so.

Q. As before? A. Yes.

Q. You understand that question? A. Yes.

Q. You haven't paid since the 27th of October 1936? You haven't paid any levies, have you? A. No.

20 Q. And you haven't paid any license fee? A. No.

No. 8  
 G. W. Shannon  
 Re-Cross-  
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No. 9

RE-DIRECT EXAMINATION BY MR. HOSSIE:

Q. When did you stop paying levies, Mr. Shannon? A. I stopped paying levies in June, 1935. I think that is right.

Q. June 1935? A. Yes, that is the last we paid in.

Q. Your returns since 1935 up to date regardless of which Board was functioning, continued to be the same? A. Yes.

MR. MAITLAND: One more point arises there now.

30 THE COURT: You see we are getting into a very bad habit.

MR. MAITLAND: It is quite—

THE COURT: I am not quarrelling with you any more than Mr. Hossie. This is going to the Privy Council and I cannot express it in any other way.

No. 9  
 G. W. Shannon  
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No. 10

RE-CROSS-EXAMINATION BY MR. MAITLAND:

40 Q. As a matter of fact, when you told Mr. Hossie you didn't pay any levies since June 1935, you had deductions made by the Independent Association didn't you? A. I believe they have had.

Q. And they put your levies in a fund didn't they? They held them back? A. Yes, I believe they did.

Q. They were deducted from your receipts? A. Yes.

Q. What you have been getting yourself hasn't changed

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since the 27th of October 1936? A. Yes. We have been getting the extra levies.

Q. Since the 27th of October 1936? A. Yes.

Q. Up to that time they were getting your levies? A. Yes.

Q. And since then you haven't paid anything? A. No.

THE COURT: Q. You said one thing there—you say that the Independents have made no deductions from you since October? A. Well, since October or the early part of November. I wouldn't be positive which date it is.

Q. Anyway you got the full price less transportation charges? A. Except what the what-you-call them takes off—the Association—for the handling charges. They take off whatever it costs to handle.

Q. But not the Board's levy? A. No.

THE COURT: All right.

(Witness aside.)

—————  
 No. 11

MATTHEW BLACKWOOD McDERMID,  
 a witness called on behalf of the  
 Plaintiff, being first duly sworn testi-  
 fied as follows:

No. 11  
 M. B.  
 McDermid  
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DIRECT EXAMINATION BY MR. HOSSIE:

Q. Mr. McDermid, you live where? A. I live on Lulu Island in the Municipality of Richmond.

Q. That is adjacent to the city of Vancouver? A. Yes.

Q. And in the area described in the scheme of the Market Board? A. Yes.

Q. What business do you carry on there? A. A dairy farming business.

Q. You produce— A. I produce milk breed—pure bred Jersey head cattle.

Q. How long have you been engaged in the business of producing milk? A. 15 years.

Q. And how long in your present location? A. 15 years.

Q. Continually during the last fifteen years? A. Yes, sir.

Q. Where do you sell your milk? A. Where do I sell my milk? To the Independent Milk Producers Co-operative.

Q. To the Independent Milk Producers Co-operative. That is an agency under the old scheme? A. That is an agency under the old scheme.

Q. You still sell to them? A. Yes.

Q. Throughout the period when there was a Milk Board under the Act you then sold to the same organization? A. Yes.

Q. And all your milk goes through them? A. Every bit except for feeding calves.

Q. How many cows do you keep? A. 45 head not counting calves and everything: 45 head.

Q. Did you receive a notice from the lower Mainland Dairy Products Board? A. Yes.

MR. MAITLAND: Well, of course it is understood it is a general objection to any evidence in this trial throughout.

THE COURT: Yes.

10 MR. HOSSIE: Q. And the accompanying form or application for registration, you received that as well? A. Yes.

Q. Did you receive more than one? A. Only the one that I can remember.

Q. These notices you received and a form of application attached? A. Yes, sir.

MR. HOSSIE: I don't know whether it is necessary to mark them. They are identical with Exhibit 1 and 2, the form of application for registration and license, with the exception M. B. McDermid, R.R.1, Eburne, Group No. 4 "Your annual  
20 license fee \$20" appears.

Q. You attend to your own transportation? A. No, there is a truck haul.

THE COURT: Q. You mean a third person? A. My son does the contracting.

Q. As an independent contractor? A. Yes.

MR. HOSSIE: Q. Did you receive this notice? A. Yes.

Q. And was there an application form attached to that? A. Yes, that is right.

MR. HOSSIE: This is a different form of notice. This is  
30 another notice, my lord, entitled "Special Notice to all those engaged in marketing the regulated product." This form 36N.7. is from the defendant Board.

(DOCUMENT MARKED EXHIBIT NO. 7)

THE COURT: Now he received this.

Q. You received this last notice which Mr. Hossie has produced? A. Yes, my lord.

MR. HOSSIE: And attached to that is an application for registration and license with respect to vehicles.

(DOCUMENT MARKED EXHIBIT No. 8)

40 THE WITNESS: That should be addressed to E. McDermid. That is a different party altogether.

MR. HOSSIE: Q. Do not answer this question until I have finished and until my learned friend has heard it. At the time when you received the notice from the Board requiring

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you to take out a license under the defendant Board, the new Milk Board, did you have a license under the old Board?

MR. MAITLAND: Of course I am objecting.

MR. HOSSIE: Don't answer it.

THE COURT: Yes, I am admitting it on the same basis.

MR. HOSSIE: Then I ask to have the license marked.

MR. MAITLAND: May I see it please?

MR. HOSSIE: The document I am asking to have marked is marked Milk Producer's License No. 1693. (Reading) I understand your lordship is ruling—your lordship is admitting this document. 10

THE COURT: Yes. Wait a minute—What did you do with the other document? We ruled against it, did we not?

MR. HOSSIE: Your lordship ruled against me on the other one.

THE COURT: The same ruling.

MR. HOSSIE: I would like to have it marked for identification, "A."

MR. MAITLAND: What does it mean, marking that document for identification? It then goes in. If it is ruled out it doesn't go in. 20

MR. HOSSIE: It identifies it.

THE COURT: The only advantage I can see is if I am wrong the document would be available to the other Court, but if it is read into the record I don't know why you need go any further than that.

MR. HOSSIE: The only thing is something might turn on the actual document. If the Registrar would mark it "A," then a letter would be all right. This document should form part of the record so there is no question but it was the same document here. 30

THE COURT: That is a practice I am not familiar with, Mr. Hossie. Frankly I do not know. I never saw it ruled upon. Have you seen it done?

MR. HOSSIE: Oh, yes, for the purpose of an Appeal Court. Suppose this matter came up in an Appeal Court and suppose, for the sake of argument, the Appeal Court should rule this license should be marked as an Exhibit in the action, it doesn't mean a new action. The document is there and is marked by the Registrar. Otherwise, if it isn't marked we would have to re-assemble the Court to have it marked. 40

THE COURT: I think I will let it in on that basis. It is a new practice to me, but it is a queer world where we cannot

have something new. "A" for identification, tendered and refused.

(DOCUMENT MARKED "A" FOR IDENTIFICATION)

MR. HOSSIE: Q. Were any other demands made upon you Mr. McDermid, to take out a license? A. No, this is the only demand—that.

Q. Did you take out a license in fact? A. Under the new Board?

Q. Under the new Board? A. No.

10 Q. What was the amount of your butter fat in 1936?  
A. 5622 pounds.

Q. 5622 pounds. Did that all go into the fluid market?  
A. As far as I understand it all went into the fluid market.

Q. How does the price you receive now, since the new Board began to function, compare with the price which you received when the old Board was functioning, Mr. McDermid?

MR. MAITLAND: Of course, I object.

A. Much lower, Mr. Hossie.

20 MR. HOSSIE: Q. You are speaking now of the new Board, the one which started to function last November?

A. It is the same, Mr. Hossie.

Q. How does it compare with the returns you received before any Boards began to function? A. Much lower. Before any Boards I received 70c a pound butter fat.

Q. What do you receive now? A. 44.84.

Q. 44.84? A. Yes.

No. 12

CROSS-EXAMINATION BY MR. MAITLAND:

30 74? Q. When were you getting 74? A. When was I getting

Q. Yes. A. I was getting 74 the first six weeks in 1931.

Q. You were getting 74 the first six weeks of 1931. And what was the price of butter then? A. I cannot tell you that.

Q. Very much higher? A. Very much higher.

Q. Have you been here throughout this trial? A. Yes.

Q. Have you been listening? A. Yes.

Q. Did you hear the evidence the other day on the price of butter? A. Yes.

Q. Did you take it seriously? A. Not too seriously.

40 Q. Do you want to answer the question? A. I will answer any question which is fair.

Q. Do you think that is unfair, the question of the price of butter? You cannot tell me when you gave these relative prices, what the manufacturing price of butter was in 1931, is that correct? A. Put that question in a different way.

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Q. You can't tell me the relative prices butter was paying in 1931 compared with what it is paying today? A. No, I cannot.

Q. You do know it is very much higher? You know that the manufactured product paid a very much higher price then than now. A. Probably a little bit.

Q. A little. Are you serious in saying it is only a little bit? Are you swearing to that? A. I cannot answer that question out clearly. My mind don't recollect that.

Q. As long as you can't answer it, all right. Your production was 5622 pounds? A. Yes. 10

Q. Can you translate that into quarts? A. No. I am not a mathematician; I am only a farmer.

Q. You must have some idea of what milk you are selling. Would it be around 300,000 quarts? A. I can't tell you.

Q. You have no idea? A. I have no idea. I am only in the producing end, not the distributing end.

Q. You belong to the Independent Producers Co-operative Association? A. Yes, I do.

Q. You have 300 members? A. We have 300 members. 20

Q. And none have paid the license fee? A. I cannot tell you whether any have paid or not.

Q. Haven't you in your Association decided not to pay the license fee? A. Not that I know of.

Q. Don't you know that the different members decided not to pay the license fee? A. Do I know that the different members decided not to pay the license fee? I have heard of a few that decided not to pay, but not the entire body. There may be in the upper country.

Q. Do you know of any that did not pay? A. No. 30

Q. This license that was put in, you didn't pay for it? A. No, it didn't cost us anything.

Q. The new Board asked you to do something? A. Yes.

Q. And you refused to take it out? A. Yes.

Q. And you haven't taken it out? A. No.

Q. What was the date that you were getting 74c? A. The date that I was getting 74c was I think in the beginning of 1931; 70c and 74, 70 and 73.

Q. That is the high water mark.

THE COURT: Q. 70 to 73? A. 70 on the statements. 40

MR. MAITLAND: Q. The price was higher for feed? A. Not so much higher.

Q. Was it higher? A. No, it wasn't.

THE COURT: All of which proves nothing as far as the effect of it is concerned.

MR. MAITLAND: Q. At the time my friend was questioning you about when you got 70c, did not all your milk go into the making of butter? A. Not that I know of.

MR. MAITLAND: That is all, thank you, Mr. McDermid. (Witness aside.)

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No. 13

BASIL GARDOM, a witness called on behalf of the Plaintiff, being first duly sworn testified as follows:

No. 13  
Basil Gardom  
Direct  
Examination  
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10 DIRECT EXAMINATION BY MR. HOSSIE:

Q. Mr. Gardom, I believe you are the president and manager of the Independent Milk Producers' Co-operative Association, a milk selling agency in the city of Vancouver? A. That is correct.

Q. You are also, I believe, a producer of milk and own your own dairy farm, and sell milk in this controlled area? A. I am.

20 Q. For the sake of those who do not understand the nature of the business will you tell us as shortly and as clearly as you can the method of handling milk in this area from the time it is produced at the farm up to when it is sold to the purchaser, and how the returns are handled. A. Your lordship, in examination of a witness just now by learned counsel Mr. Maitland—

MR. MAITLAND: I am objecting; just a moment.

THE WITNESS: He introduced a question of the Dairy Products Assessment Act, and with your kind permission I would like to commence from the Dairy Act. He questioned the former witness—

30 THE COURT: I do not think I can go back to it. It is not before me. It is an Act which is repealed and it is out of our way. You had better follow Mr. Hossie's question. He knows about how far we can go and how far we cannot go. What he asks for the purpose of the record is to explain the method of handling milk in this area; that is so the Court will have a grasp of it. A. From which date?

Q. Not so much from the date.

MR. HOSSIE: Q. Right now.

THE COURT: Q. Right now. Your modus operandi.

MR. HOSSIE: Q. Your present system.

40 THE COURT: Q. Your present system.

MR. HOSSIE: Q. So that anyone not familiar with this area may understand it from reading your statement.

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THE COURT: Q. Start with the dairyman who produces it, and what happens, and so on. A. The farmer members of our Association, your lordship—

MR. MAITLAND: I object to this. This Association is not a party. On my friend's argument a few moments ago certain parties to this action were being affected in a certain way, and they can give evidence of how they were affected; and now this witness says that some Association that he belongs to does certain things. It is a specific organization not on the record. 10

THE COURT: I think Mr. Hossie will get this clarified in a minute. We were starting with—?

MR. HOSSIE: The producer on the farm, regardless of whether he belongs to the Association or any other.

THE COURT: What does he say?

THE WITNESS: First of all he has to be qualified to ship milk into this market, and he has his qualifications under the 1927 Act, under the B.C. 1927 Milk Act.

THE COURT: Just a minute now. Under the Milk Act of B.C. 1927. A. His production conditions are subject to inspection directly by the provincial government veterinary department. 20

THE COURT: Just a minute now. A. He has to qualify under fifty-five different items.

Q. All under the Milk Act? A. All under the Milk Act, your lordship. Covering the health of the cattle—

Q. These are some now you are mentioning? A. Yes, my lord. Sanitation of buildings and methods employed, and the inspector gives him either an A, B, or C certificate. If the qualification is too low for a C certificate he is marked as ungraded. At the present time only products from A and B farms are allowed to enter the Coast cities for fluid purposes. 30

THE COURT: And that, Mr. Hossie—What is the reason of that prohibition of C grade milk coming in?

MR. HOSSIE: The reason of what?

THE WITNESS: That is under the Act of 1927.

THE COURT: Is that under the Milk Act?

MR. MAITLAND: The sanitary conditions.

THE COURT: Q. Are you sure of that? That surprises me. A. Ungraded milk is graded as unfit milk for consumption—human consumption. 40

Q. What about the Coast cities? What about the city of Hope? A. For the moment I was confining my remarks to the larger markets here. As far as the small cities in the country are concerned, if the farmers do not come up to the grade, they are allowed to sell milk—

MR. MAITLAND: Every municipality under that Act can make requirements.

THE COURT: That is the explanation.

MR. HOSSIE: The City of Vancouver has its own by-law with regard to milk? A. The City of Vancouver has its own by-law in regard to milk and its own inspection.

MR. MAITLAND: And the Health Board can add to it if they want to.

MR. HOSSIE: Q. While you are on the question of grades, we have heard something of preferred raw and certified raw. How are they graded? A. The only certified raw milk that I know of on this coast—I might say in British Columbia—is the Brookbanks Farm, the one farm.

Q. That is a special grade? A. That is a special grade.

Q. What is the preferred raw? A. The preferred raw milk is different from the ordinary grade A inasmuch as some is required in the dairy, etc., for one thing and another.

Q. Do you know how many preferred raw producers there are in the area? I have heard it suggested by my friend there are not more than six? A. I cannot give you that number accurately, your lordship. There would be more likely 150.

MR. MAITLAND: Q. Shipping into Vancouver?

THE COURT: I do not know why it is material at all but I will just put it down as an estimate. I do not suppose it does any harm.

MR. HOSSIE: Q. Having got the qualifications, Mr. Gardom, I presume we could produce milk? A. The milk now is on the farm dairy ready to go to the city of Vancouver. It is hauled by truck, Canadian Pacific, Canadian National or B.C. Electrical Railway. No longer is it chiefly by truck.

Q. What distance is it brought? What is the maximum distance within the area in question? A. My experience is just east of Chilliwack.

Q. How many miles would that be? A. We would say 75 miles. I am safe in saying 75 miles.

THE COURT: Q. East of the city of Vancouver. A. To the city of Vancouver, my lord.

MR. HOSSIE: Q. When it arrives in Vancouver, Mr. Gardom, what happens to it? A. In quoting prices to the farmer we always quote f.o.b. Vancouver. All the farms we do business with we pay our freight right from the farm dairy to the dairy in the city of Vancouver. There is no pooling of freight rates; each pays his own freight rate.

Q. When the milk arrives in the city of Vancouver where does it go? A. We divert it to the different dairies.

MR. MAITLAND: I am going to object again. We are

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getting back on the question of an individual giving his individual handling of a quantity of milk. He is telling us what he does in his particular business. I submit it has no relevancy in this case.

THE COURT: Mr. Maitland, I think this part is unobjectionable. Personally I do not need it, but I do not know whether or not it would help the Court above to know how the milk business is carried on.

MR. HOSSIE: I think perhaps the use of the word "we" by the witness gave my friend the opportunity of objecting. It wasn't necessary to use it at all. 10

Q. Tell us shortly, Mr. Gardom—the milk comes in by railway or truck, and where does it go to in Vancouver?  
 A. It goes to the receiving platform of the different dairies.

Q. By the dairies you mean what? A. The distributors licensed by the city of Vancouver.

Q. To distribute milk to whom? A. To distribute milk to the consuming public.

Q. The distributing dairy having received the milk to be distributed to the public in the course of their business? 20  
 A. Yes.

Q. Would you trace the backward flow of the proceeds of that milk? A. That is going to be difficult for me to do that without bringing the Association into it.

THE COURT: I am not going to object to the Association being in it. What we are getting now is the mechanics of the thing. A. I would like to interject here, your lordship, that the milking methods on the farm and the milk on arrival in the city of Vancouver are subject to qualified inspection by qualified inspectors promptly, and they have been all the time these schemes have been in force. That is Provincial Inspectors, and the city Inspectors are men who know their business and have to pass examinations and be under license before they are in a position to inspect milk at all. 30

MR. HOSSIE: Q. Are those inspectors in any way—

THE COURT: Be careful, Mr. Hossie. It is all right for the consumers to know these things but it does not help me to solve the problem. I am putting it down, but it does not help me.

MR. HOSSIE: Q. Trace the way the money gets back from the consumer. Now the consumer pays the dairy. 40  
 A. The consumer pays the dairy, who voluntarily takes their supply from our Association, pay us—pay the Association.

THE COURT: Q. Who pays the truckman? A. The truckman in some instances—is always paid by the producer. To save him trouble and so forth the dairies pay for this. We

allow him credit for it in some instances and we pay him through our office.

MR. HOSSIE: Q. The cost of trucking is taken by the producers, the same as the freight? A. The cost of the trucking is borne by the producers.

THE COURT: Yes? A. The licensed dairies are subject to inspection by the city inspectors, and they also give us the privilege of putting our inspector in there to check their composite test.

10 Q. You are an Association of certain farmers combined together for mutual benefit. You, for the good of your membership, have a right to inspect the dairy? A. We have a right to inspect for the butter fat.

Q. That is a check against the dairy? A. That is a check against the dairy.

MR. HOSSIE: Q. In addition to the city inspectors? A. In addition to the city inspectors. They don't check as far as weights are concerned.

20 Q. I think you said the dairies that take the milk from your producers make their returns to the members for the milk to you? A. The dairies settle with us.

Q. How does the money get back to the producer? A. We in turn twice monthly, on the 10th and 25th of each month, we settle with all the producers.

Q. How many producers ship through your organization? A. Three hundred.

Q. What percentage of the milk handled by your organization goes to the fluid market in Vancouver?

30 THE COURT: You have established that the witness is speaking for a substantial group of farmers. I think beyond that I have no interest. I do not think it arises in this action. The witness has established himself as a substantial producer interested in this industry.

MR. HOSSIE: Very good, my lord.

Q. Mr. Gardom, can you tell the Court the present price of standard milk to the consumer? A. The present price of standard milk to the consumer is ten quarts for a dollar.

Q. Standard milk is— A. 3.25 butter fat contents.

40 THE COURT: Sometimes I find it difficult to write and listen at the same time.

MR. HOSSIE: The standard price is ten quarts for a dollar.

THE COURT: Q. The present price is ten quarts for a dollar. What kind do you say? A. 3.25 b.f.

Q. For—? A. Standard milk, 3.25.

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MR. HOSSIE: Q. That standard is set under the Milk Act of the Province I take it, or City by-law? A. City by-law. It has been on that basis.

Q. What was the price of standard milk to the consumer before the 12th of November 1936, before the present Market Board began to function? A. Exactly the same.

MR. MAITLAND: Q. Ten quarts for a dollar? A. Ten quarts for a dollar.

MR. HOSSIE: Q. What was it before the Milk Board began to function under the Act? When was the last change? 10

A. The last change was February 1st—from January 31st 1935. The price on that day was twelve quarts for a dollar, and it changed on February 1st, 1935 to ten quarts for a dollar.

Q. How long had the price been at twelve quarts for a dollar prior to the 1st of February 1935? A. Well, approximately since June 1st, 1931, during the rate war.

Q. Prior to that had the price been standardized? A. Prior to that the price was higher. The farmer's price was up to 73c a pound butter fat and as high as 75.

Q. It was higher? A. It was higher to the consumer. 20  
 We had some information here yesterday which I find out did not agree with the local information.

Q. Now, Mr. Gardom, starting back over the same thing again, what were the returns to the producer on the average as far as your experience with 300 producers has been concerned, at the present moment? A. In round figures 44c a pound butter fat, averaging in everything.

Q. That is at the present moment? A. 44c, your lordship; 43.88.

THE COURT: Q. That is to the producer? A. That 30  
 is to the producer on an average.

MR. HOSSIE: Q. And how long has that average prevailed? A. That has prevailed since February 1st, 1935.

Q. What was the average in the period before that? A. The average in the city of Vancouver before that, to the producer we worked out at 40c a pound butter fat.

Q. 40c? A. On the average to all of us.

Q. That is to everybody? A. That is to everybody.

THE COURT: Q. When you say to all of them you mean all throughout the Fraser Valley do you? A. No, sir, only 40  
 those who were shipping to this city or to New Westminster or North Vancouver, 40c.

Q. 40c to all shippers to Greater Vancouver?

MR. HOSSIE: Q. Have you a comparable figure? A. I ought to qualify that word "all." I mean all outside the one

large Association, that was their average. I cannot give the average of the Association.

THE COURT: I did not get that. A. All outside of the Association, possibly 700.

MR. HOSSIE: Q. What were the returns of the Association? A. 34c.

Q. At that period? A. Yes.

Q. What are the returns to that Association since the 1st of February 1935? A. The returns are practically the same due to the fact that their overhead is heavier—higher.

Q. Have you the exact figure? A. Yes.

Q. What is it? A. 32—

THE COURT: We are travelling a little bit beyond the field. I don't know how that would help me, do you?

MR. HOSSIE: Yes, my lord. It is quite a help. Again I must gently protest against arguing a point of law in a matter that will later come up in my argument, which is this: I want to show that the returns received by the producer haven't increased due to the operation of this Act. If that is a fact, and I understand it is the fact—

MR. CRAIG: The thing is the Act isn't a beneficial Act, I suppose. Is that it?

MR. HOSSIE: No, I am not concerned with whether it is beneficial or not. The fact is the producer isn't getting any more than he did before. The fact is the consumer actually paid more and the consumer isn't taxed. It comes back to an indirect tax, it comes back to the producer, and the Board takes that money and uses it, and the result is someone has to pay it and the producer pays it and the tax is in fact extracted from the consumer though the producer doesn't get it.

MR. CRAIG: The witness says the overhead expenses of the Board.

MR. HOSSIE: Q. For what Board, what city? A. The F.V.M.P.

Q. Say what it is. A. The Fraser Valley Milk Producers Association.

MR. MAITLAND: He is giving evidence of a different organization.

THE COURT: I thought you would want to cross-examine on it.

MR. MAITLAND: I don't want to cross-examine. My friend has to establish it.

THE COURT: I do not know. It is up to counsel to destroy it. I do not think it is up to me.

MR. MAITLAND: If I object my friend has to lay his foundation.

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THE COURT: No, not for that. If the witness here has sworn to tell the truth and swears a certain set of facts—he should be a member of the Fraser Valley Milk Producers Association.

MR. HOSSIE. Q. If my friend wants you to elaborate on that— A. We have had their balance sheets from 1932 to 1936.

Q. Have you examined these balance sheets? A. Yes.

Q. And your evidence is based on that? A. Yes.

MR. CRAIG: I object. It is hearsay evidence, my lord. 10

No. 14

No. 14  
 Basil Gardom  
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CROSS-EXAMINATION BY MR. MAITLAND:

Q. Now what is the membership of your organization?

A. The numbers?

Q. Yes. A. 300.

Q. And what is the membership of the other Independent organization—what do you call them? A. The F.V.M.P.A.

Q. No, the Independent? A. The Milk Shippers Agency Limited?

Q. Yes. A. I understood there are about 288. I think 20 you will have to get more reliable information than that.

Q. I thought your information was always reliable.

A. Thank you.

Q. Roughly 600 at the outside? A. Between the two a little less than 600.

Q. What are your producers getting now per pound butter fat? A. An average of 44c.

Q. And what were they getting in December? A. An average of 44c.

Q. What were they getting in November? A. Which 30 year?

Q. Last year. This is February. Yes, last November?

A. Since February 1st up to the present time?

THE COURT: February 1st, 1935. A. Since February 1st, 1935, your lordship, the average would be 44c in round figures; 43.88.

MR. MAITLAND: Q. It is just the same. That is what you are getting at I suppose. A. Yes.

Q. You are not paying any license fee under this Board? A. No. 40

Q. And you haven't done so since this scheme came into effect? A. No.

Q. You haven't paid anything to the Board? A. You are speaking of the Lower Mainland Dairy?

Q. Yes. A. No, we haven't paid them anything.

Q. That applies also to the other Independents? A. I don't think that they have paid them anything.

Q. So that would be about 600 not paying—not paying any license fees at all? A. I would say more than that weren't paying a license fee.

Q. How many would you say weren't, roughly? A. Your lordship the Board advises us—they tendered in sworn evidence in the witness box they wished to get from \$50,000 to \$55,000 license fees for the next year. We had the minute book of the Board as an exhibit and all the amount of money we could find that was paid in licenses for that year in that minute book was \$8400. Your lordship, that is the only way I can answer learned counsel's question.

Q. That is the way you work it out? A. I would say according to that it is very few who have paid the license.

Q. How many producers would you say there are in the whole area, roughly? A. 3200.

Q. Is the return that the producer gets affected at all by the price paid for the manufactured product? A. Always, yes.

Q. In 1931 do you know what the price paid for butter was?

THE COURT: Steady, Mr. Maitland.

THE WITNESS: Your lordship—

THE COURT: Yes? A. May I ask you a question, your lordship?

THE COURT: You may not, but let us hear what it is.

THE WITNESS: If learned counsel can go back and ask me the price of butter in 1931, I would appreciate it very much if I could bring in the question of the Dairy Adjustment Act.

MR. MAITLAND: You are in the hands of Mr. Hossie. He has given us a price—a witness—71c. What was the price of butter then?

THE COURT: It is a simple question. If you do not know, say so. A. I don't know, your lordship.

MR. MAITLAND: Q. It was a great deal higher? A. I think it was around 34; I am not sure what it was.

Q. What is it today? A. The wholesale price of butter today is 26 $\frac{3}{4}$ c.

THE COURT: You see it has very little value from my standpoint. With these rather dim recollections one cannot make a finding of fact on them, and if the witness does not know, he does not know. I am taking it down, what you say.

MR. HOSSIE: Q. Did the Dairy Sales Adjustment Act have any effect on the price of butter in 1930?

THE COURT: I cannot see that question. It did not arise from your examination in chief.

MR. HOSSIE: My friend has asked two witnesses of

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mine now to tell him, and he seems very anxious to find out what the price of butter was in 1930. This witness has done his best and I am asking him if there is any special feature that affected the price of it.

THE COURT: If you want to ask him that, it is a different matter. The question was a leading one the way you put it.

No. 15

RE-DIRECT EXAMINATION BY MR. HOSSIE:

No. 15  
 Basil Gardom  
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Q. Were there any special factors governing the price at that time? A. The special factor was the feed unit. Feed was high and therefore the butter was high. 10

Q. That is in 1930? A. That is in 1930.

Q. Were any other factors operating at all? A. No. I would say wages were higher then and the feed unit cost was high.

Q. Were there any factors that affected the return to the dairymen from the fluid market of 73c? A. There was a rate war in 1931.

Q. I am speaking of 1930. A. There was an agreement between all the dairies in the city of Vancouver which held the price to the farmer for the year 1930. 20

MR. MAITLAND: I wasn't quite finished.

MR. HOSSIE: Oh, I am sorry. My friend left his chair.

No. 16

RE-CROSS-EXAMINATION BY MR. MAITLAND:

No. 16  
 Basil Gardom  
 Re-Cross-  
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Q. How long did this rate war keep up, Mr. Gardom? A. This rate war unfortunately kept up from the 1st of June 1931 until the 31st of January 1935.

Q. Did the producers lose money during the rate war, or not? A. The producers certainly lost money during the rate war. 30

Q. Thank you. A. They are losing money today.  
 (Witness aside.)

No. 17

WILLIAM CORRAN, a witness called on behalf of the Plaintiff, being first duly sworn testified as follows:

No. 17  
 William  
 Corran  
 Direct  
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DIRECT EXAMINATION BY MR. HOSSIE:

Q. Mr. Corran, you are an accountant, I believe? A. I am. 40

Q. You are the accountant for the Independent Milk Producers Association? A. I am.

Q. The Association of which Mr. Gardom is the president and manager? A. Yes.

Q. And you have been employed by that Association throughout the control of milk by the Act in question? A. That is right.

Q. Mr. Corran, can you tell me the amount and the prices that have been paid by consumers under the control of the Act?

A. I have heard them stated in the Court; they are all correct.

Q. That is 10c a quart? A. Yes, for 3.25.

10 Q. 12 before the Act? A. Yes.

Q. You handle the returns from the dairies to your Association and the payments out to the producers? A. I do.

Q. Have you the exact figures and the returns since the new Act—since November of last year? A. Since November? You mean for the whole Association?

Q. Yes. A. You mean for butter fat or dollars and cents?

20 MR. MAITLAND: May I ask what this is directed to. I don't know. Here is a specific organization, this is one of the officers of that organization, and it isn't general evidence. They are not parties to the action. He is giving us his figures.

THE COURT: It will all depend on the trend of the answer when it is detailed. If he goes into names I am not interested. It is something that applies to farmers generally.

MR. HOSSIE: I am afraid this witness cannot speak for farmers generally unless he has been through the books of the Milk Board or the Fraser Valley.

Q. Have you had access to any of those? A. No.

30 THE COURT: Mr. Hossie, he must know. When he speaks for 300 farmers he must know what happens to a very large crowd. What he has to do is to delete from the statements the charges made by the Co-operative Association himself, then he has the general situation.

THE WITNESS: You are asking, Mr. Hossie, what is the price paid to these members.

MR. HOSSIE: Q. On the average? A. The average price is about 44c.

40 THE COURT: Q. You are speaking now of the Co-operative? A. Of the Independent Milk Producers Co-Operative Association with 300 members.

THE COURT: Yes.

MR. HOSSIE: Q. You are handling a substantial portion of the fluid milk in Vancouver? A. Yes, we are.

Q. That clear 44c, has that been the same for some time? A. Yes.

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Q. For how long? A. It has been the same since February 1935.

Q. Do you know how much money was collected by way of levies? A. From the whole of the area?

MR. MAITLAND: Levies when? Under which?

MR. HOSSIE: Under the old Board.

MR. MAITLAND: Well, I am objecting to that.

MR. HOSSIE: I think I am entitled to have that figure. I want to show what money was collected by the old Board by the levying that went on, because my friend is seeking to show by the fact licenses haven't been deducted from this organization makes a difference in their averages. 10

THE WITNESS: It was \$558.30.

MR. MAITLAND: Wait a minute. You know better than that.

MR. HOSSIE: Of course there is no secrecy about the figure. We have had it in court several times already. I want to show actually what was collected by way of levies, and it is relevant by way of the amount now said to be collected by way of licenses. I think I am entitled to show that. If I can show that the license fees are simply another method of collecting the same amount of money that was collected by a levy, they are simply calling the same thing by a different name. 20

THE COURT: Have you anything to say about that?

MR. MAITLAND: I make the formal objection.

THE COURT: Oh, I think perhaps it is admissible on the principle sometimes applied, it cannot do injury. You cannot do in an indirect way what you cannot do in a direct way. I think you might draw more conclusions.

MR. HOSSIE: Q. Do you know the figure? A. \$557.30, 30 it is.

Q. You got that figure from whom? A. That came from Mr. Campbell of the Board.

Q. What position does he occupy? A. Accountant.

THE COURT: Q. That was the levy collected during what year? A. February 1st 1935 to May 31st 1936.

MR. CRAIG: I make the objection it is hearsay evidence. It is what some employee told him.

THE COURT: Q. Where did you get it? A. I have the statements from the Board. 40

MR. MAITLAND: But they are not parties. There is quite a difference.

THE COURT: I think it is still hearsay evidence, Mr. Hossie, if it is objected to. A statement prepared by someone not before the Court, I think that is hearsay evidence.

MR. HOSSIE: Yes. A statement prepared by the accountant of the Board. RECORD

THE COURT: Yes. He would have to be called. You have no opportunity of cross-examining as to its accuracy. There is no doubt about it. *In the Supreme Court of British Columbia*

MR. HOSSIE: Thank you.

MR. MAITLAND: No questions.

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(Witness aside.)

No. 18

No. 18

10

THOMAS HEDLEY McDONALD, a witness called on behalf of the Plaintiff, being first duly sworn testified as follows:

Thomas H. McDonald  
Direct Examination  
Feb. 16, 1937

DIRECT EXAMINATION BY MR. HOSSIE:

Q. Mr. McDonald, you live where?

MR. MAITLAND: He is not one of the plaintiffs.

MR. HOSSIE: Yes.

MR. MAITLAND: I never saw him in my life before.

MR. HOSSIE: Q. Mr. McDonald, you live where? A. Chilliwack.

Q. That is within the area controlled by the Milk Board?

A. Yes.

Q. And how far from Vancouver? A. Oh, around 75 miles. Approximately 75.

Q. You are engaged in what business, Mr. McDonald?

A. A dairy farm.

Q. At that place? A. Yes.

Q. How long have you been engaged in dairy farming?

A. Well, since 1910 and following the war period when I was at the War.

Q. You have been continuously engaged from 1910 with the exception of a period from 1914 to 1918? A. With the exception of the War period.

Q. You are still carrying on? A. Trying to carry on.

Q. Did you receive a notice from the New Milk Board requiring you to take out a license? A. Yes.

Q. And a form of application? A. Yes.

Q. Are these the documents?

MR. MAITLAND: The same objection, of course, my lord.

A. Yes.



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MR. HOSSIE: I needn't file those documents. It is Form 36N2 of the Board dated October 28th, 1936. This is Form 36N1 which is the same form that has already been filed in connection with Mr. Shannon with the exception it is filled out on the top "Thomas H. McDonald, R.R.1 Chilliwack, Group 6. Your annual license fee \$30."

Q. Did you take out a license? A. No.

Q. Were any other demands made upon you? A. Well, they sent a man they call their inspector, which isn't a qualified inspector.

Q. What is his name? A. Mr. Wakeley.

Q. He called upon you? A. To ask me what I was going to do, and I told him I didn't recognize any Board at all.

THE COURT: Q. When was that? A. Well, it was just before they issued the summons. I haven't the date.

Q. January of this year? A. No, it was before January, your lordship. It must have been about November I think.

MR. HOSSIE: Q. Does the date of the summons help you?

THE COURT: Give him the date of the summons.

MR. HOSSIE: The 21st of November 1936. A. It was just a few days prior to the summons.

Q. The summons you refer to was for what purpose? A. For not taking out a license.

Q. You were in fact prosecuted?

MR. MAITLAND: Now, I am objecting to that.

THE COURT: You have it in Mr. Maitland; that is as far as it will go. He fixes the day of the second demand prior to the 21st of November 1936.

MR. HOSSIE: Q. How many cows do you keep Mr. McDonald? A. Well, from 25 to 30.

Q. To whom do you ship your milk? To whom do you sell it? A. To the Independent Milk Producers Co-Operative Association.

Q. Does it all go to them? A. It all goes to them.

Q. How many pounds of butter fat did you sell in 1936? Have you the figure? A. Yes, I have that. 6981 pounds to the fluid market.

Q. How do the returns which you receive now compare with those you received under the old Boards? A. Just the same.

Q. And prior to the 1st of February 1935 what were your returns—comparative? A. Just practically the same.

Q. Has there been any increase under the—

MR. MAITLAND: That is a leading question.

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THE COURT: That is a leading question.  
 MR. HOSSIE: Your witness.  
 MR. MAITLAND: No questions.

(Witness aside.)

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MR. HOSSIE: I have some discovery now, my lord, the discovery of William J. Park, the chairman of the Board.

MR. MAITLAND: I would ask my friend to keep in mind  
 10 I am objecting to certain answers given on discovery that are not binding on your lordship at the trial here.

THE COURT: Give me the numbers first if you have them.

MR. CRAIG: They are taken down as going in, and we want to object to them as they come up.

THE COURT: Your objection is reserved. The only advantage in taking them down in numbers now is it is a matter of convenience if you have them in that form.

MR. HOSSIE: The questions I have noted are 1 to 68;  
 20 question 76; 86 to 118; 123 to 136; 146 to 179; 183 to 186; 195 and 196; 223 and 224; 229 to 245; 263 to 298; 312 to 363; 367 to 381; 388 to 393; 415 to 422; 427 to 433; 438 to 566. I am anticipating my friend isn't going to call any evidence. The examination is in three parts, my lord.

THE COURT: I have only one here.

MR. HOSSIE: It was adjourned the second day.

THE COURT: We ought to have the original. Where is that?

MR. HOSSIE: I don't know my lord, only it should be in the record.

30 THE COURT: I have two here. Yes, I have it.

MR. HOSSIE: Has your lordship the three parts?

THE COURT: I have two so far.

MR. HOSSIE: The 14th of January, 18th of January, and February 1st.

THE COURT: Yes.

MR. HOSSIE: (Reading from examination).

MR. MAITLAND: That is the old scheme my friend is referring to there.

40 MR. HOSSIE: Why does my friend say that? The date is right there, October 27th, 1936. My friend gets up and objects and says this is the old scheme.

THE COURT: He made a mistake.

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MR. MAITLAND: It is the first time I have made a mistake in four days.

MR. HOSSIE: I have caught my friend more than that that I haven't told him about yet.

MR. HOSSIE: (Reading question 7 of examination).

THE COURT: That is a letter from whom, the Minister of Agriculture?

MR. HOSSIE: This is a letter from the Minister of Agriculture, my lord.

THE COURT: It simply contains an Order in Council. We do not need it to prove it. 10

MR. HOSSIE: I will have to look at it first. My friend has it and I have no copy.

THE COURT: I do not think you will want that letter.

MR. HOSSIE: I will have to see it before I can determine it. There is another letter from the Minister of Agriculture. I don't think we need that. The date is wrong anyway. I won't trouble to mark the letter of October 28th, but I wish to mark the enclosure, which is Order in Council No. 1217, a copy of the minute which was approved, October 27th, 1936. 20

THE COURT: Order in Council No. 1217.

MR. HOSSIE: Order in Council No. 1217, yes, my lord.

THE COURT: The date?

MR. HOSSIE: October 27th, 1936.

THE COURT: We have not got that in.

MR. HOSSIE: I will tell you, my lord, I don't really need to add this. It is only a change in the name, and the name has been embodied in the scheme. It was amended before publication and published in the amended form. I won't mark that. I am sorry, my lord. I think I will mark the minute book, we have no copies of it here, as Exhibit 7, and it shows the orders. We can mark the minutes as one exhibit and the orders. 30

MR. MAITLAND: Does my friend suggest all the minutes of the Board go in, and if so, how are they relevant? There might be minutes dealing with hundreds of things and not dealing with this thing.

MR. HOSSIE: I think the operation of the Board is highly relevant and entirely relevant in this action. This Board is purporting to exercise the authority of the Acts, which is questioned, and has functioned since October last year, and their minutes set out in fact what they have done under these Acts. I think they are important. Not only the orders but the administrative action taken in respect of them throughout the period. 40

MR. MAITLAND: These orders that my friend complains of speak for themselves, but why all the minutes since it went

into the action should become part of the record, I cannot understand.

MR. HOSSIE: Perhaps I can explain it for my friend. It isn't the orders as my friend puts them, that I complain of. It is the fact I want to attack the Act itself.

MR. MAITLAND: I am referring to the statement of claim. "The defendant has from time to time issued and promulgated certain orders and certain orders have been made and issued by Messrs. Park, McArthur and Edwards purporting to exercise authority under the British Columbia Act, which said orders exceed three folios in length and will be referred to at length on the trial of this action." There is not a word about the minutes throughout. What they are complaining about is in 8. He goes on—"By the said orders the defendant seeks to exercise jurisdiction—"

THE COURT: Of course, the minutes complained of would be relevant, would they not?

MR. MAITLAND: What I am objecting to is having everything this Board has done and said to be thrown in.

THE COURT: Not to throw in anything unnecessary.

MR. MAITLAND: I can't object to the ones he says are relevant and he sets them up.

MR. HOSSIE: I submit I am entitled to show the minutes on which the orders are enforced.

THE COURT: That is true, perhaps, Mr. Hossie, but you are doing more than that. You are gathering them up into a basket and saying "Take the whole business." Where there are orders and minutes I admit it is a hard job to sort out the orders.

MR. CRAIG: There is a further objection. If these orders are good—whether they are good or not depends on the Act, and no matter what the Board has done, if they have done something beyond the Act, that doesn't hurt the Act. If they have done something within the Act it doesn't make the Act any better. My submission is the orders and the minutes cannot add to or make worse the Act.

MR. HOSSIE: That is the same point we have had up before, that the Act says that certain things may be done, one of which is to set up a Board and give them certain powers, and now I am entitled to show, and therefore I must show, that the Board has been set up and that it has in fact exercised some of the powers which have been conferred upon it, by passing these orders.

THE COURT: If you fail on A you might succeed on B of your prayer. In other words the Act may be ultra vires and some of the orders intra vires. They might be entitled to a declaration under that very Act.

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MR. MAITLAND: We admit in our defence we made certain orders—paragraph 8—and those orders that are produced are evidence of what we did. I don't want your lordship to think I am trying to obstruct things, but I want to keep the record down to reasonable proportions. Suppose we come to prepare an appeal book, what is the sense of putting in long bank reports for a moment. These different people were present at a certain time.

THE COURT: Mr. Hossie, having regard to the action, I think Mr. Maitland is undoubtedly right. It is not going to assist in testing the merits of your claim to have the record cluttered up. Mr. Maitland said right at the beginning you are going along with this action and you do not want to have all this printed. Suppose you took out the minutes you think are relevant and put them in, and no more. 10

MR. HOSSIE: Well, my lord, I have gone over these minutes in the course of the examination for discovery, and there are not many of them. In the first place I have no intention of putting in the banking resolution. It is not a minute, it is referred to in a minute. 20

MR. MAITLAND: My friend asked to put them all in.

MR. HOSSIE: The banking is not a minute.

THE COURT: Sometimes I have seen them. I think I had an illustration the other day of passing a banking resolution without a minute.

MR. MAITLAND: I would suggest your lordship take the minute book over the adjournment.

THE COURT: No, I am not going to take it.

MR. MAITLAND: I think your lordship would get an idea of— 30

THE COURT: No, I am going to give Mr. Hossie a chance to look through that. He is perfectly competent to do so and I feel perfectly satisfied by morning he will not put in any more than he has to. I do not think Mr. Hossie will say "Here is the minute book: put them all in." We will adjourn to eleven o'clock tomorrow morning.

(COURT ADJOURNED AT 4:30 P.M. UNTIL FEBRUARY  
 17th, 11 A.M.)

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(11 A.M. COURT MET PURSUANT TO ADJOURNMENT) 40

MR. HOSSIE: Proceeding with the examination for discovery, my lord, I have gone through the minutes since the adjournment, and I think I can very well dispense with some

minutes, boiling them down to—I have forgotten how many, but I will come to them.

THE COURT: That will be Exhibit 9.

MR. HOSSIE: They were marked separately my lord, so I will put them in separately, or under one number, just as your lordship wishes.

THE COURT: It is immaterial.

MR. HOSSIE: Perhaps I had better put them in separately because the minutes are interspersed throughout.

10 Reading at question 10 of the examination.

THE COURT: Just a minute now.

MR. HOSSIE: The first is a minute of the inaugural meeting of October 27th, 1936. There are two pages in the minute.

THE COURT: Minute of the defendant Board.

MR. HOSSIE: Yes, minutes of the inaugural meeting. (Reading).

MR. MAITLAND: Now your lordship will see that doesn't apply in the least with what I was objecting to yesterday. These minutes contain a great deal of irrelevant matter. Why does  
20 this have to go in an appeal book? I haven't the faintest idea what a lot of the things my friend has read have to do with the constitutionality of the scheme or the constitutionality of the Act. What my friend read about the bases may be quite all right; it may have some bearing. But surely you cannot read all the minutes into the record because you wanted something in them. For instance—"Resolved that advertisements be inserted in the Chilliwack "Progress"—and the names of all these people and so on. Why go through this book filling the record up with things that have no more to do with this case than the color of  
30 the moon.

MR. HOSSIE: I submit I am not at liberty to take parts out and leave parts in, in a minute as of October 27th, 1936.

THE COURT: Is it all one?

MR. HOSSIE: This is the minutes of the Board of that date.

THE COURT: Oh, yes, that is the minutes of the Board of that date, but what occurs to me is that it is not necessary to put in all the minutes of that date. You are going to have a most cumbersome record I am inclined to think.

40 MR. HOSSIE: I have no objection to leaving out what my friend read.

THE COURT: What will happen, Mr. Hossie, in the end will be this: that you will have in the record there copied from this book, just such minutes as are admitted in evidence.

MR. HOSSIE: That is all.

THE COURT: And if any other Court than this Court

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wants to read any more than they have to read, mark the minutes that you want put in and have copies made of them.

MR. HOSSIE: That is what I am proposing to do.

MR. MAITLAND: I have no objection to putting in what is read in the inaugural meeting, but if he is going to follow this with all the meetings we are going to have a lot of irrelevant matter.

MR. HOSSIE: My friend is anticipating a lot.

MR. MAITLAND: I have a right to.

THE COURT: We are agreed the minutes of the inaugural meeting will go in in toto. That will be Exhibit 9. 10

(MINUTES MARKED EXHIBIT No. 9)

MR. HOSSIE: Arising out of that meeting come orders 1, 2 and 3.

THE COURT: Will that form one exhibit?

MR. HOSSIE: I think they had better be given separate numbers. I will mark it in pencil.

THE COURT: Nine are the minutes of the 27th of October.

MR. HOSSIE: Order No. 1 is the next.

THE COURT: That will be Exhibit 10. 20

(DOCUMENT MARKED EXHIBIT No. 10)

MR. HOSSIE: I will read from Exhibit 10 so we can get the context, as we go on. This is an order of the Board. (Exhibit 10 read). It has the seal of the Lower Mainland Dairy Products Board on the sheet of paper.

THE COURT: So far I do not notice the minutes authorizing the seal.

MR. HOSSIE: No. I am coming to that in a moment. The next will be order No. 2.

(DOCUMENT MARKED EXHIBIT No. 11) 30

MR. HOSSIE: All these orders begin with the same general heading and end with the two general paragraphs at the end, the second one giving the date. The body of the order differs. (Exhibit 11 read).

(DOCUMENT MARKED EXHIBIT No. 12)

MR. HOSSIE: It is signed by all the three members with the seal of the Board on it.

MR. HOSSIE: Order No. 3 consists of five pages. (Reading) Group 35 are all producers who have not been awarded a base. There is no provision for anyone shipping more than 3500 pounds (Reading). There are some general provisions. Signed with the seal of the Board on it. Then in 40

the discovery questions, reading on from where I left off, question 11. (Questions read 10 to 19). The next minute to which I wish to refer is the minute of October 30th, 1936, which has to do with the seal. The minute of the full Board. Mr. MacGinnis secretary, approved the minutes of the 28th October. (Document read).

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(DOCUMENT MARKED EXHIBIT No. 13)

MR. HOSSIE: Reading at questions 23 and 24. The next order is No. 4, the minutes of the 9th of November.

10 THE COURT: Which one is which, the exhibit or the minute? A. The minute is first, my lord.

(DOCUMENT MARKED EXHIBIT No. 14)

MR. HOSSIE: Order No. 4 will be Exhibit 15.

(DOCUMENT MARKED EXHIBIT No. 15)

MR. HOSSIE: It deals with haulers, manufacturers and distributors. (Exhibit 15 read.) The next is a minute of November 16th.

(DOCUMENT MARKED EXHIBIT No. 16)

MR. HOSSIE: (Reading).

20 MR. MAITLAND: Why is that evidence in this case?

MR. HOSSIE: I think it is a matter that the Board saw fit to do it and recorded so in its minutes.

MR. MAITLAND: I would like to know why it should be on this record.

THE COURT: I do not know why it is relevant.

MR. MAITLAND: My lord, it isn't relevant. There are many things now that have been going in, that are not relevant. It can be brought up for no other purpose than to tickle his client. It has nothing to do with this case and the record should not have  
 30 it. What does it matter in a constitutional action whether solicitors are given instructions to prosecute anyone or not?

MR. HOSSIE: In the first place with my friend it may be his wish is father of the thought. The three plaintiffs to the action are not here today, so it may allay his mind on that. This minute was recorded by the Board and it is just evidence of the fact that it did deliberately prosecute the three plaintiffs.

THE COURT: It is not material.

MR. HOSSIE: And it does establish the fact a demand was made on us and sought to be enforced.

40 THE COURT: Just a minute. On the question of demand.

MR. HOSSIE: Very well, my lord.

THE COURT: That is not disputed.



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MR. HOSSIE: I will not press the matter any further.  
Order No. 5 will be Exhibit 17.

(DOCUMENT MARKED EXHIBIT No. 17)

(Exhibit 17 read by Mr. Hossie.)

MR. CRAIG: My lord, with regard to that may I make  
this remark: Suppose that your lordship thinks that order isn't  
justified by the Act. This is a practical example suppose your  
lordship comes to the conclusion the Act does not authorize it to  
say that until someone takes out a license they shall not carry on  
business, if that order is void it cannot possibly affect the Act. 10

THE COURT: It does not necessarily follow.

MR. CRAIG: I would go further and say it cannot possibly.  
On the other hand suppose the order is good. If the order is  
good that cannot assist in attacking the Act. As far as I can see  
it has no relevancy whatever, and that applies to a lot of these  
things.

THE COURT: Well, Mr. Craig, there is more than the  
validity of the Act in issue in this action. The second paragraph  
of the prayer in the statement of claim is for a declaration that  
they are under no obligation to register or obtain licenses or pay 20  
licenses or other charges levied or otherwise comply with the  
rules required and orders made and issued; and the third para-  
graph of the prayer is for an injunction to restrain the defendant  
from insisting on these things. Under (b) of the prayer the  
plaintiff, in my opinion, is entitled to lead evidence that would  
show a demand was made and sought to compel registration and  
sought to license them, and sought to compel them to pay license  
fees. These are all matters.

MR. CRAIG: I have only in mind the constitutional  
question. 30

THE COURT: I think on the minor issues they are in a  
position to say what has been done. This is the thing of which  
they complain.

MR. HOSSIE: The next minute I wish to put in is of  
December 30th and order No. 6 therein approved. The minute  
will be 18 and Exhibit 19 the order.

THE COURT: The date of the minute?

MR. HOSSIE: The date of the minute is December 30th,  
1936, my lord.

(DOCUMENT MARKED EXHIBIT No. 18) 40

(Exhibit 18 read by Mr. Hossie.)

MR. HOSSIE: The order is very short, dated the same day.

(DOCUMENT MARKED EXHIBIT No. 19)

(Order read by Mr. Hossie.)

MR. HOSSIE: The next minute I wish to read is that of January 6th. No order was actually passed but one was moved and not passed. I will give my learned friend an opportunity— he may wish to object to it.

MR. MAITLAND: Hand it up to his lordship and ask him if he thinks it has any bearing on the case. I think that is the fairest way. I don't think it is relevant to the case.

MR. HOSSIE: It is the long paragraph with reference to  
10 fixing the prices.

THE COURT: I think that is not an Act done. I do not think it is admissible.

MR. HOSSIE: I want to read at this point question 50.

MR. MAITLAND: What question, please?

MR. HOSSIE: 50 to 54. (Reading) The seal was affixed to certain documents since that examination was started. Now there was one minute. January 13th.

MR. MAITLAND: Now I would ask my friend to hand it  
20 up to your lordship without reading it if it is the one I think it is.

MR. HOSSIE: It is the one that approves order No. 7.

MR. MAITLAND: Well, the part approving No. 7 I have no objection to, but however, I don't think they did; I understand they didn't.

MR. HOSSIE: Order 7 is in the book and marked as an exhibit. I don't know why my friend says they didn't. It was marked on discovery.

THE COURT: He said he was not sure it was that.

MR. MAITLAND: There are other references in this  
30 exhibit. The remarks of the members of the Board who did not approve I do object to as being irrelevant in the case.

THE COURT: I think so.

MR. MAITLAND: I would ask your lordship to look at it.

THE COURT: They are deliberators.

MR. MAITLAND: It isn't a question of the deliberations, it is the penalty of it. If my friend reads it he gets it on the record, and that is what I am objecting to.

MR. HOSSIE: May I say this: I will mark the paragraph. It is one complete paragraph.

MR. MAITLAND: Yes. I am objecting to it.

THE COURT: All right. That may be an issue for me to  
40 try. It is admissible down to the end of the word "Carried." I am not concerned with any view of any member.

MR. HOSSIE: "Moved by Mr. T. M. Edwards and seconded by Mr. W. J. Park, that order No. 7 designating the Dairy Products Co-operative Association as the Agency through

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which the regulated product shall be marketed, be and is hereby determined and made effective from the date set out therein." I don't want to read too far. "Carried." There is a comma after it, which means one stop in the middle of the sentence.

THE COURT: Yes.

(DOCUMENT MARKED EXHIBIT No. 20)

MR. HOSSIE: I submit, of course, the whole sentence should go in but I have to bow to your lordship's ruling. Order 7 of the same date and the same form provides that "Dairy Products Co-Operative Association, of 802 Credit Foncier Building, in the city of Vancouver, British Columbia, be and it is hereby designated the agency through which all milk shall be marketed within the area to which the scheme relates." 10

THE COURT: Read me that again.

MR. HOSSIE: That is a new name your lordship hasn't had to date, the Dairy Products Co-Operative Association. (Reading).

THE COURT: A subsidiary body is it. It is free, is that the idea?

MR. HOSSIE: No, it is independent. The members of the Board are interested, but it is an independent organization. There are five men interested in it. It came up on discovery. Three members of the Board and two others are interested in it in equal shares. Mr. Bone and Mr. Allen, two members of the Board, are interested in it. (Reading) 20

(DOCUMENT MARKED EXHIBIT No. 21)

MR. HOSSIE: I call your lordship's attention to the fact there it is only signed by two members of the Board and not by Mr. McArthur. Then reading on from question 55. (Reading questions 55 to 58). 30

MR. MAITLAND: What number, Mr. Hossie?

MR. HOSSIE: I am reading 59 now. I started at 55 and am reading on.

MR. MAITLAND: Excuse me a moment. Your lordship has the discovery?

THE COURT: Yes.

MR. MAITLAND: My friend is now reading "To whom were these notices sent by the Board? A. They were sent to producers—" etc. That is question 58. I do suggest that following that there are a whole lot of things that are entirely irrelevant as far as this question is concerned. I don't mind to whom they were sent, but the next page is irrelevant. 40

MR. HOSSIE: I only propose to read to 64.

MR. MAITLAND: You gave us 68 yesterday.

MR. HOSSIE: I gave you 68 yesterday but I am cutting it down to 64.

THE COURT: You are objecting, Mr. Maitland, to it being read to 64?

MR. MAITLAND: I would ask your lordship for a ruling on 61. What has it to do with it?

MR. HOSSIE: I am reading at 59, my lord. (Reads 59 and 60) My friend objects to 61. I think I am entitled to put it in.

THE COURT: I think 61 is rather a conclusion to the matter, Mr. Maitland. It simply says—

MR. MAITLAND: I cannot see what it has to do with the  
10 action.

MR. HOSSIE: (Reads questions 61 and 62) I would like to put in a question or two I didn't mention yesterday. I think I should properly read from 72 to 76. (Reading) That was produced. I haven't one here, but can my friend produce the form of license? The document was marked 9 for identification. Perhaps we could have a blank form of the license to put in. We could, perhaps give it a number, and read on.

(DOCUMENT MARKED EXHIBIT No. 22)

MR. HOSSIE: Then I want to read from 86 to 118.  
20 (Reading) Give the sheets a number. That consists of the sheets which were marked on discovery and certain ones which have been created since the 4th of January showing the amount of license moneys received. There is one total on November 28th, \$2866.25.

MR. MAITLAND: The 12th of January of this year.

MR. HOSSIE: Yes, 1937. And small amounts since that date.

THE COURT: Sheets referred to in question 88.

MR. HOSSIE: And I think probably the subsequent sheets  
30 should be marked. It is a continuous record of moneys received for licenses, and the series on the 12th of January we had marked, but other numbers have been added since that date.

MR. MAITLAND: I presume we can put in like statements. We don't want the originals in.

MR. HOSSIE: No, we don't want the originals in.

MR. MAITLAND: We will give you a copy.

(DOCUMENT MARKED EXHIBIT No. 23)

THE COURT: It should be \$150.

MR. MAITLAND: It should be \$150.

THE COURT: That should read "license fee \$150."  
40

MR. MAITLAND: The amount should be 3101 pounds and license fee \$150.

THE COURT: 3101 and license fee \$150.

MR. MAITLAND: \$150.

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THE COURT: Now, the examination for discovery, it is agreed by counsel, I understand, to be amended accordingly to read that way.

MR. MAITLAND: I am not sure yet my lord. I have to check.

THE COURT: Counsel agree to the amendment to the transcript?

MR. HOSSIE: I did not know that the error was in the original. It was in my brief.

MR. MAITLAND: It was in mine too. 10

THE COURT: The original reads 3130. It should read 3101, and it is amended accordingly. And the next figures in the transcript given to me read "license number 150;" that now reads "license fee \$150."

MR. HOSSIE: (Reading questions 89 to 118). And 123 to 136.

THE COURT: You stopped at 118, did you not?

MR. HOSSIE: I stopped at 118.

THE COURT: And you are starting in at 123?

MR. HOSSIE: Yes, my lord. (Reading questions 123 to 136). Questions 146 to 179. (Reading) Questions 183 and 184. (Reading). 20

THE COURT: That was 184?

MR. HOSSIE: 183 and 184. I left out the next two. It doesn't matter. I am shortening it down as much as I can. 195 and 196. There is one of the things your lordship has ruled on.

MR. MAITLAND: Oh, yes, I am objecting to that.

MR. HOSSIE: I tender those two questions in evidence.

THE COURT: 195 and 196, is it?

MR. HOSSIE: Yes, my lord. 30

THE COURT: Already ruled out.

MR HOSSIE: Pardon me, my lord?

THE COURT: I am ruling against them.

MR. HOSSIE: I think I should record they referred to the minute of the 6th of January 1937. I pass straight on to question 250.

MR. HUTCHESON: Cutting out all these?

MR. HOSSIE: Yes.

MR. MAITLAND: This list of mine is all haywire. My friend didn't give me a list. 40

MR. HOSSIE: I perhaps omitted it.

THE COURT: If you are putting in anything you did not give me yesterday there will be trouble if you do not read it. Have you any you did not give me?

MR. HOSSIE: I am asking to put in 250.

MR. MAITLAND: Yes. I cannot object to that. However, I have a long list that is different.

MR. HOSSIE: I am giving you now the ones I am reading in. I am trying to save the record. I took time last night and figured I could leave out some of them. (Question 250 read). I think Mr. Maitland's inquiry re that question should go in. It is interpolated after 251: "I did not quite get the sense of that—any distinction between people supplying the local market, and the export market. Is that it?", and I said "Yes." Then the next question which was asked, my learned friend Mr. Maitland asked me for an explanation of the preceding one and that was given.

10 THE COURT: All right. Now, where do we go?

MR. HOSSIE: I gave your lordship a lot of numbers yesterday but I think we can save the record again if we just read on from 312 to 317.

MR. MAITLAND: 312 to 317.

MR. HOSSIE: Yes. (Reading) 323 to 362 (Reading).

MR. MAITLAND: Is that 334 you have just read? How does that—what has it to do with the constitutionality?

MR. HOSSIE: I will leave it out, and 336.

20 MR. MAITLAND: Take 338, what has it to do with it?

MR. HOSSIE: I will leave 338 out if you wish.

MR. MAITLAND: The rest of this is irrelevant. I haven't objected to him getting in the directors. All that would raise is a froth.

MR. HOSSIE: My friend wants me to leave out 338 so I start at 339. (Reading) Reading at 367 to 373. (Reading). Questions 376 and 377 (Reading).

THE COURT: There is a Provincial Board, I suppose. I will find it out when I find the amendment to the Act.

30 MR. MAITLAND: It was always there.

MR. HOSSIE: It was always there from the beginning, my lord.

THE COURT: I thought the Provincial Board was dropped when they passed these amendments.

MR. HOSSIE: No. It is the same Board that has been there since the beginning, my lord. 379 to 381 (Reading); 388 to 393 (Reading).

THE COURT: 388 to 393. All right.

40 MR. MAITLAND: Now, just a minute. What relevancy has that? These are questions I objected to before. I was asleep when my friend started, but what relevancy has personal questions asked Mr. Park with the constitutionality of this Act, and why should they be on the record? My lord, I object to all those questions. If my friend can show me in the pleadings where that is, I will withdraw my objection of course.

MR. HOSSIE: I think it is a relevant fact to show what

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interest this man, who is chairman on the Board, who regulates all the milk in this area—

MR. CRAIG: It isn't a question of constitution.

MR. HOSSIE: It came out. I didn't know it at the time. It is a surprise that a director and secretary of the Fraser Valley Milk Producers—he is the secretary of this Board—and I think it is highly relevant we should show that.

THE COURT: It is interesting, but not relevant.

MR. HOSSIE: Those questions are ruled out, my lord?

THE COURT: Yes.

MR. HUTCHESON: That is 388 to 392.

MR. HOSSIE: Yes. 415 to 422 (Reading).

MR. MAITLAND: What letter? This is a letter sent out by the Fraser Valley?

MR. HOSSIE: Yes.

MR. MAITLAND: What has it to do with this action?

MR. HOSSIE: This shows the method adopted by this Board. They turn over a lot of the applications to dairies, and the letters are being sent out by the Fraser Valley Milk Producers.

THE COURT: You have not the letter at 415.

MR. HOSSIE: It is identified at 422.

MR. MAITLAND: We are not on trial for the method we send out notices or whether we let them send out notices to their members. Why should the record be encumbered with something the Fraser Valley are doing?

THE COURT: If they are doing it as agents of the Board that would be different.

MR. HOSSIE: That is a point I am trying to make: that the Fraser Valley Milk Producers Association as agent of the Board were sending out and actually collecting license fees as a matter of fact, and paying them over to the Board.

MR. MAITLAND: Where is that we were collecting license fees?

MR. HOSSIE: Right in the letter.

MR. MAITLAND: I don't see anything very harmful in it except it fattens the record unduly.

MR. HOSSIE: 418 (Reading) I will mark that letter. It is a letter addressed "Dear Sir or Madam" and mimeographed. The Fraser Valley Milk Producers Association, January 12th, 1937.

THE COURT: That letter is in is it?

MR. HOSSIE: I will put it in now.

(DOCUMENT MARKED EXHIBIT No. 24)

THE COURT: Exhibit 24.

MR. HOSSIE: Question 421. That is speaking of February 1st. (Reading) Questions 427 to 433 (Reading).

THE COURT: Let me see what that figure is now. Those are the fees collected.

MR. HOSSIE: That is the amount of license fees collected as of February 1st, my lord, 453 to 455 and question 459. 453 to 455 (Reading) 459 (Reading) 468 to 470 (Reading) 487 to 491 (Reading).

THE COURT: Pardon me. I was reading that last question again. What?

MR. HOSSIE: 487 to 491 (Reading) 496 and 497 (Reading). Now, starting at 505, my lord, to 566.

THE COURT: 505—

MR. HOSSIE: 505 to 566. I have to put all those in to get the inception of this rating. (Reading) These are Mr. Park's figures on which he bases those answers. I will mark that.

THE COURT: Question 548. All right now.

(DOCUMENT MARKED EXHIBIT No. 25)

MR. HOSSIE: (Reading). That is the case, my lord.

MR. MAITLAND: Would it suit your lordship's convenience to adjourn now? My friend Mr. Hossie has left out some discovery which I thought was going in, and whether I am going to settle that or not, I do not know.

THE COURT: I was going to ask Mr. Hossie to supply a list of questions that he put in.

MR. HOSSIE: My lord, I would be very glad to do it right now.

THE COURT: So that we have it on record.

MR. HOSSIE: I will do it right now.

THE COURT: Now, Mr. Maitland, how much of the afternoon are you likely to take?

MR. MAITLAND: Probably none.

THE COURT: Well, 2.30.

(COURT ADJOURNED UNTIL 2.30 P.M.)

2.30 p.m., February 17th, 1937

(COURT RESUMED PURSUANT TO ADJOURNMENT.)

MR. MAITLAND: My lord, we are not calling any evidence.

THE COURT: Are you revising that list of questions, Mr. Hossie?

MR. HOSSIE: Yes, I have it here. I say that any question as to the admission of three questions, that I agreed with my

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friend be left out—335, 336, 338 should be left out. If I might pencil in this, my lord, I will have it correct in a moment.

THE COURT: Yes, that is fine.

MR. HOSSIE: That is the list now. (Handing document to Court.)

THE COURT: Mr. Hossie, before closing the case, you now put in the following questions from the Examination for Discovery of William J. Park, and you have read the same as evidence on behalf of the Plaintiffs. The list, Mr. Maitland, you will keep as if I had repeated what Mr. Hossie had. And Mr. Maitland, at this stage you say that the Defence closes without witnesses—no witnesses? 10

MR. MAITLAND: Yes.

THE COURT: All right.

MR. McMULLEN: You will find copies of the orders which were written this morning, which I put in as exhibits.

THE COURT: These are in?

MR. McMULLEN: Yes, and also copies of the minutes; and in the case of two minutes, numbers 16 and 18, by an oversight the numbers are copied that your lordship ruled were irrelevant. 20

THE COURT: Well, just strike these parts out.

MR. McMULLEN: I think it will be necessary to have them re-copied and filed.

THE COURT: All right, that is satisfactory.

MR. MAITLAND: They are not going in until they are corrected.

MR. McMULLEN: No.

THE COURT: Anything in the matter of the exhibits that requires completion, you will just see about that. It is not so important that it be done now. 30

Well, that is the case, is it not. Now, as to arguing, I presume you want to dispose of the matter with as reasonable celerity as can be had.

MR. HOSSIE: Yes, my lord. There are some matters coming up on Friday under this Act, I don't know whether my friend will agree to adjourn them or not in the meantime, but we are anxious to get this matter disposed of in order to see whether the prosecutions are to go on or not, but my argument necessarily takes an amount of time to get prepared, and with the other matters coming up on Friday I won't be able very well to do much on that this week, I am afraid. 40

THE COURT: Certainly I want to give you a judgment this week. I will do the best I can too. Do you want me to fix a time limit for your argument?

MR. HOSSIE: No, my lord—

THE COURT: You think you and Mr. Maitland can agree on that?

MR. HOSSIE: I shall have to file my argument as well in the Hayward and Shannon actions and I shall endeavour to do that as fast as I can. Unfortunately on Friday there are eight prosecutions coming up under this Act in Chilliwack, and if that day is taken out—

THE COURT: Well, it is not for me to say, that is a matter for the Magistrate—well, perhaps I had better not say anything.

10 MR. HOSSIE: Well, I have asked my friend for an adjournment. I say formally, and I ask him to adjourn these matters until your lordship's decision has been handed down, but in case that request is refused, then I will be busy.

MR. MAITLAND: I have just been informed that the Board are agreeable to an adjournment until a decision is reached. May I point out that it would help us all if your lordship would suggest such a thing, because the learned Magistrate does not pay much attention to either of us.

20 THE COURT: Well, Mr. Maitland, I am glad to see that you take that position, because in a matter of this kind where the constitutionality of the Act is at issue, I think it is desirable that prosecutions should not go on. There is such a thing as chivalry and fair dealing, and that is your attitude, so, Mr. Hossie, if it is of value, you may communicate with the Magistrate and say to him that this Court is of the opinion that the prosecution should stand for the present until this matter is determined.

30 MR. MAITLAND: My lord, I want to be clear on this, if I may say so now, I want to go on record in regard to this because this question of adjournment—it is only because your lordship will give a reasonably early judgment, I mean as consistent with the importance of this and the other matter you have to consider. I am taking the position that we are agreeable to the adjournment, but I don't want to be in the position that your lordship will hold this—of course I am very strongly of the opinion that will be so—I am giving the adjournment for my friend's appearance in the other court—the Court of Appeal, and then until he goes to the Privy Council. The position we have been taking, and have taken is this, if you don't go ahead with your  
40 prosecutions against persistent violations of an Act, then the Act would be powerless, simply because someone wants to bring the question up in the Courts. There is the situation.

THE COURT: No, that is quite right.

MR. MAITLAND: There is the situation in many of these cases. I don't want to be understood that I am binding myself in any other matter or any other circumstances.

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THE COURT: Nor beyond the position of this one, I take it.

MR. MAITLAND: No, my lord.

MR. HOSSIE: I would like to put on the record that my friend has created this situation, it was not necessary for the Board to prosecute the Plaintiff in this action in order to determine whether this action should be enforced, and they were prosecuted and that was continued, in the Vancouver Police Court, and the Magistrate there, on my request, having refused a similar request with regard to the first one, did hold the matter over, and I believe intends to hold it over until your lordship's decision has been rendered, so I don't agree with my friend's principle as he has enunciated it, and it has been that principle alone that actuated him throughout. However, I quite understand my friend's position in case we should find ourselves in the position of having to appeal, then we have certainly the ruling of a higher Court for staying any further prosecution. 10

THE COURT: If I might add to the observations, just generally, I think it is desirable that in a matter of a Statute of this kind that Counsel persuade their clients—counsel are always reasonable, and sometimes clients are not so reasonable—if one may take for the benefit of the Bar that compliment—I think counsel should prevail upon their clients to eliminate feeling as completely as possible. The Legislature undoubtedly is doing its best, as it sees it, whether rightly or wrongly remains to be seen; but nothing is to be gained by acrimonious litigation, or the permitting of feeling or bitterness to enter into the relationships of producers, and I am sure all this is best for the common weal of the producers in this very important part of our Province, the Fraser Valley. Then I will do the best I can. Of course, one has to bear in mind that there is work sometimes that is pressing, and I will give it every priority I can, and I will try to reserve special time if I can on the trial list to devote myself to this as soon as the arguments are ready. Do you want me to make one bite of the cherry and give you all the decisions on one day, or would you prefer that I deal with this case first? 20 30

MR. HOSSIE: I think, my lord, the order in which they were heard before your lordship ought to be the logical one in which they might be decided. The first case is a very simple one—the issues are simpler, and the Hayward case and this one involve exactly the same point. 40

MR. MAITLAND: My lord, that is not my position, because my friend has not seen my argument yet. The reason that I objected to them being tried together was that this last case is a clear-cut case under current conditions, and it affects the dairy industry. The other two cases did not, and your lord-

ship would have to struggle somewhat, I think, with the authorities in the other cases, because they introduce points of law that are extraneous to the constitutional question, and I think in the interests of everybody that that is important, this case is the important one, and should have the right of way.

THE COURT: Well, I will let my conscience be my guide, subject to your getting in your argument.

MR. MAITLAND: That is all I want.

THE COURT: Then I think that ends the matter for today.  
10 Thank you, gentlemen.

MR. CRAIG: I will get a copy of his argument.

MR. HOSSIE: Yes, I will give you that.

THE COURT: Oh, yes, Mr. Craig, you will get a copy of his argument; and I want to thank you gentlemen for the fine way you have handled it.

(C. A. V.)

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No. 20

20 PORTIONS OF EXAMINATION OF WILLIAM JAMES  
PARK, AN OFFICER OF THE DEFENDANT LOWER  
MAINLAND DAIRY PRODUCTS BOARD, FOR  
DISCOVERY.

No. 20  
W. J. Park  
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1. Q. You are William J. Park of Pitt Meadows, British Columbia? A. That is right.

2. Q. You have been sworn for this examination? A. Yes.

3. Q. You are the William J. Park who was nominated as member of the Lower Mainland Dairy Products Board by order-in-council of the 27th of October, 1936? A. Yes.

4. Q. You were also a member of the previous board, the  
30 B. C. Lower Mainland? A. Yes.

5. Q. And of the board formed under the Dominion Act, the British Columbia Lower Mainland Products? A. Yes.

6. Q. You have held a position since the beginning, since February, 1935? A. Yes.

MR. HOSSIE: Have you a clean copy of the scheme, Mr. Maitland? Mine is marked up.

MR. MAITLAND: October 27th, 1936, is that the date, Mr. Hossie?

MR. HOSSIE: Yes.

40 MR. MAITLAND: Yes.

MR. HOSSIE: You produce the copy of the scheme approved under order-in-council dated October 27th, 1936.

MR. MAITLAND: Yes.

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(DOCUMENT REFERRED TO MARKED No. 1 FOR IDENTIFICATION)

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MR. HOSSIE: Will you produce order-in-council 1174, your document No. 1 on your affidavit?

MR. MAITLAND: There you are. (Producing) That is the same order-in-council as the printed one I just gave you.

MR. HOSSIE: What you just gave me refers to 1217.

MR. MAITLAND: Look at the second letter.

MR. HOSSIE: They are both mentioned.

7. Q. You produce a letter from the secretary of the Minister of Agriculture dated 12th October, 1936, with enclosure, being copy of order-in-council 1174 and the final marketing scheme attached thereto. I presume that is the same as the printed one? A. Yes. 10

(LETTER REFERRED TO MARKED No. 2 FOR IDENTIFICATION)

(COPY OF ORDER-IN-COUNCIL MARKED No. 3 FOR IDENTIFICATION)

(COPY OF SCHEME MARKED No. 4 FOR IDENTIFICATION) 20

(LETTER FROM THE HON. MINISTER OF AGRICULTURE DATED OCTOBER 28, 1936, MARKED No. 5 FOR IDENTIFICATION)

(ENCLOSURE WITH EXHIBIT 5 BEING ORDER-IN-COUNCIL 1217 MARKED No. 6 FOR IDENTIFICATION)

MR. HOSSIE: 8. Q. Will you produce your minute book, please, your production No. 6? A. Yes, here it is right here.

9. Q. This is a loose-leaf book and the pages are not numbered. We will have to mark the exhibits separately. Your minute book will be exhibit 7. 30

(MINUTE BOOK REFERRED TO MARKED No. 7 FOR IDENTIFICATION)

10. Q. The first is a minute of the inaugural meeting Tuesday, October 27, two pages.

(DOCUMENT REFERRED TO MARKED No. 7A FOR IDENTIFICATION)

11. Q. The next is order No. 1.

(DOCUMENT REFERRED TO MARKED No. 7B FOR IDENTIFICATION) 40

12. Q. You identify these as I am referring to them, Mr. Park? A. Yes, I guess so, my signature is on.

13. Q. For the purposes of the notes will you record the fact? It saves time. A. Yes.

14. Q. The next entry in the book is order No. 2. Is that right? A. That is right.

(DOCUMENT REFERRED TO MARKED 7C FOR IDENTIFICATION)

15. Q. The next entry in your book is order No. 3, consisting of five pages. Is that right? A. Yes.

(DOCUMENT REFERRED TO MARKED 7D FOR IDENTIFICATION)

16. Q. The next entry is a minute of a meeting held on October 28, one page? A. Yes.

(DOCUMENT REFERRED TO MARKED 7E FOR IDENTIFICATION)

17. Q. Attached to that is a bank resolution on form No. 72B, Bank of Nova Scotia? A. Yes.

18. Q. Together with the bank forms 67A and No. 57, one page each.

(DOCUMENTS REFERRED TO MARKED 7F FOR IDENTIFICATION)

19. Q. Your next entry is the minutes of the meeting of October 30, 1936? A. Yes.

(MINUTE REFERRED TO MARKED 7G FOR IDENTIFICATION)

20. Q. The next entry is the minute of October 2nd, 1936, one page, is that right? A. Yes.

(DOCUMENT REFERRED TO MARKED 7H FOR IDENTIFICATION)

21. Q. And the next is the minute of the meeting of November 4th, 1936, one page, is that right? A. Yes.

(DOCUMENT REFERRED TO MARKED 7I FOR IDENTIFICATION)

22. Q. The following entry is the minute of November 5, 1936? A. Yes.

(DOCUMENT REFERRED TO MARKED 7J FOR IDENTIFICATION)

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23. Q. The next entry is the minute of November 9, 1936,  
 one page? A. Yes.  
 (DOCUMENT REFERRED TO MARKED 7K FOR  
 IDENTIFICATION)
24. Q. The next entry is order No. 4, three pages?  
 (DOCUMENT REFERRED TO MARKED 7L FOR  
 IDENTIFICATION)
25. Q. The next entry is the minute of November 10, one  
 page? A. Yes.  
 (DOCUMENT REFERRED TO MARKED 7M FOR IDENTIFICATION) 10
26. Q. The next entry is the minute of November 12, one  
 page? A. Yes.  
 (DOCUMENT REFERRED TO MARKED 7N FOR  
 IDENTIFICATION)
27. Q. The next entry is the minute of November 16, 1936?  
 A. Yes.  
 (DOCUMENT REFERRED TO MARKED 7O FOR  
 IDENTIFICATION)
28. Q. The next entry is the order No. 5? A. Yes. 20  
 (DOCUMENT REFERRED TO MARKED No. 7P FOR  
 IDENTIFICATION)
29. Q. The next entry is November 18, 1936? A. Yes.  
 (DOCUMENT REFERRED TO MARKED No. 7Q FOR  
 IDENTIFICATION)
30. Q. The next entry is the minute of November 19, 1936?  
 A. Yes.  
 (DOCUMENT REFERRED TO MARKED No. 7R FOR  
 IDENTIFICATION)
31. Q. The next entry is the minute of November 20, 1936? 30  
 A. Yes.  
 (DOCUMENT REFERRED TO MARKED No. 7S FOR  
 IDENTIFICATION)
32. Q. The next is the minute of November 23, 1936, one  
 page? A. Yes.  
 (DOCUMENT REFERRED TO MARKED No. 7T FOR  
 IDENTIFICATION)
33. Q. The next is the minute of December 1, one page?  
 A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7U FOR IDENTIFICATION)

34. Q. The next is the minute of December 7, one page?  
A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7V FOR IDENTIFICATION)

35. Q. Minute of December 8, one page? A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7W FOR IDENTIFICATION)

- 10 36. Q. The next is the minute of December 9, one page?  
A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7X FOR IDENTIFICATION)

37. Q. The next is the minute of December 15, one page?  
A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7Y FOR IDENTIFICATION)

38. Q. The next is the minute of December 22nd, one page?  
A. Yes.

- 20 (DOCUMENT REFERRED TO MARKED No. 7Z FOR IDENTIFICATION)

39. Q. December 28, one page? A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7AA FOR IDENTIFICATION)

40. Q. The next is the minute of December 30, one page?  
A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7BB FOR IDENTIFICATION)

41. Q. The next entry is order No. 6? A. Yes.

- 30 (DOCUMENT REFERRED TO MARKED No. 7CC FOR IDENTIFICATION)

42. Q. The next is a minute of December 31, one page?  
A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7DD FOR IDENTIFICATION)

43. Q. The next is the minute of January 6, 1937, one page?  
A. Yes.

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(DOCUMENT REFERRED TO MARKED No. 7EE FOR IDENTIFICATION)

44. Q. The next is the minute of January 7, one page?  
 A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7FF FOR IDENTIFICATION)

45. Q. The next is the minute of January 8, one page?  
 A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7GG FOR IDENTIFICATION)

46. Q. The next is the minute of January 12, one page?  
 A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7HH FOR IDENTIFICATION)

47. Q. I notice that this is the first minute not yet confirmed?  
 A. Yes.

48. Q. The others are signed and confirmed by Mr. MacGinnis?  
 A. Yes.

49. Q. The last entry in the book is a minute of January 13 and this is not signed by the chairman or secretary?  
 A. Yes.

(DOCUMENT REFERRED TO MARKED No. 7II FOR IDENTIFICATION)

50. Q. Throughout the minute book, Mr. Park, the signature W. J. Park is your own?  
 A. Yes.

51. Q. And the signature of Mr. Edwards where it occurs, is that of another member of the Board?  
 A. Yes.

52. Q. And the signature of Mr. McArthur is the third member of the Board?  
 A. Yes.

53. Q. The signature of Mr. MacGinnis is that of the secretary of the Board?  
 A. Yes.

54. Q. The seal affixed to sundry minutes and documents is the seal of the Board?  
 A. Yes.

55. Q. The seal is affixed to exhibit 7B, 7C, 7D, 7F, all pages in 7F, 7G, 7L, 7P and 7CC. You produce number 8, a copy of a letter sent by the Board to the plaintiff and other producers?  
 A. October 28, is that it?

56. Q. I do not know. I have never seen it Mr. Park.  
 A. I guess that is the one you are referring to. (Producing)  
 Yes, that is the one.

57. Q. Is this the enclosure that went with it?  
 A. Yes.

(LETTER REFERRED TO MARKED 8 FOR IDENTIFICATION)

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(ENCLOSURE MARKED 8A FOR IDENTIFICATION)

RECORD

58. Q. To whom were these notices sent by the Board, exhibits 8 and 8A? A. They were sent to producers that we had registered previous to the Board coming in, anybody that we knew was a producer.

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59. Q. You took the list of registered producers from the records of the B. C. Board of which you were a member—the same personnel exactly—and you say the new Board, the defendant in this action, sent these notices out to all the producers direct? A. I would not say direct. Some came in and got them themselves, but wherever we knew of a producer we would send it to him by some method.

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60. Q. He either came and got it or you sent it to him?

(Cont'd)

A. Yes.

61. Q. I understand you caused a lot to be sent out through the Fraser Valley? A. Yes, the Fraser Valley sent them out at their own request. They asked us for the application forms.

62. Q. It amounts to this that your last statement is not quite accurate. You gave a lot of these forms to the Fraser Valley and allowed them to send them out? A. At their request, the same as anybody else who might ask us for the application. Then, they would send them out. The Fraser Valley asked us if we would send them up to them, and we did so far as my memory is concerned.

63. Q. You are a director of the Fraser Valley? A. Yes.

64. Q. So is Edwards one of the members of the Board?

A. Yes.

65. Q. You are also a director of the Associated Dairies, aren't you?

30 MR. MAITLAND: Just a minute. Don't answer that.

MR. HOSSIE: 66. Q. You refuse to answer?

MR. MAITLAND: Yes, I am advising him not to. I do not see anything in the pleadings pertaining to this.

MR. HOSSIE: 67. Q. Do you draw a salary from the the Fraser Valley Milk Producers?

MR. MAITLAND: Don't answer that.

40 MR. HOSSIE: I want an answer. He tells me that the Board sent out certain things, and when I point out that that is not accurate he says that the Fraser Valley requested that these be sent out. He is a director and I want to know what control he has in it.

MR. MAITLAND: I instruct him not to answer.

MR. HOSSIE: 68. Q. You refuse to answer that question? A. Yes, I refuse to answer.

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72. Q. Have you got the form of license used by the Board? A. Yes. (Produces)

73. Q. I take it that each one of these is a triplicate copy of the license? A. Yes.

74. Q. What happened to the other two copies? A. I am not sure that this is a triplicate.

75. Q. It says triplicate? A. I could not answer. I do not know what the office has done. I presume one has gone out.

MR. MAITLAND: If you don't know, say so.

MR. HOSSIE: 76. Q. Who would know? A. Mr. MacGinnis would know. 10

(DOCUMENT MARKED No. 9 FOR IDENTIFICATION)

\* \* \* \* \*

86. Q. Your cash book No. 11 is the next production? A. This is the cash receipts here.

87. Q. It is part of this book in which license No. 1 was marked. You show me some sheets at the front of the book starting November 3, 1936, is that right? A. Yes.

88. Q. Consisting of double columns on each page? A. And consisting of nine pages dated in 1936 and one page with one column only for 1937, the concluding date being January 12, on which there are four entries. 20

(SHEETS REFERRED TO MARKED No. 10 AND 10A TO 10I INCLUSIVE)

89. Q. These sheets which have just been marked, Mr. Park, contain a record of all the receipts of the Board? A. Well, I could not say definitely whether they do. The accountant would have to say.

90. Q. Who is the accountant? A. Mr. Campbell.

91. Q. He was the accountant of the old Board? A. Yes. 30

92. Q. Both old Boards, in fact? A. Yes.

93. Q. This appears to be an entry of receipts from individuals presumably in payment of licence fees imposed by the Board. I notice that the vast majority are for 25c. Is that because the amount payable by the individual was not at that time determined? A. What is that again?

94. Q. Why are these licences 25c in so many instances? A. Those are men—well, I could not definitely answer that. I don't know whether they are "C" and ungraded men or not. I could not definitely answer. 40

95. Q. In order No. C you have a provision that all producers not awarded a base the licence fee is 25c? A. That would be it, then.

96. Q. That is merely a registration fee in effect? They would have to pay on the base when it is awarded, on the scale set up in order 3? A. Yes, if they came in another group, they would have to pay what that group licence was.

97. Q. By group, you are referring to the group men in order 3? A. Yes.

98. Q. According to the pounds of butterfat he wished to sell? A. Not necessarily. It would be in the group he came in.

99. Q. You mean group within the meaning of order 3? A. Order 3 sets out the group.

100. Q. The group into which he comes depends on the amount of butterfat which he is entitled to sell during the year? A. No.

101. Q. How is it determined then? A. Arbitrarily.

102. Q. By whom? A. By the Board.

103. Q. On what basis? A. Well, I would say that if it is a man, a small man within a certain classification he is in one group and so on. It depends more or less on the size of the farmer.

104. Q. Is that the best guide you can give for the basis of the group? A. Yes, I think that is about all I could say in regard to the groups and how we pick them.

105. Q. Take group 30 under order 3, being all producers whose basis of production is determined by the Board at over 3000 pounds and less than 3101 licence fee \$150. How is a man to know whether he falls in that group or not? A. Say that again?

MR. HOSSIE: Will you read the question, please.

(REPORTER READS QUESTION No. 105)

A. By the amount of his production, I presume. It says there how he gets into one group.

106. Q. I am asking you as chairman of the Board how he knows? I would like you to be more thorough than in your last answer. A. Well, he has a base.

107. Q. Where does he get it? A. He is allotted a base.

108. Q. How do they determine the base? A. I think No. 2 gives that. The way the Board have fixed the base is on the January, February and March production and the October, November and December—the average production during those months.

109. Q. What year? A. 1935.

110. Q. That is the average of those six months? A. Yes.

111. Q. I understand you correctly that it is January, February and March, 1935, and October, November and December of 1935? A. Yes.

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112. Q. You omit the six months in the middle of the year? A. Yes.

113. Q. The old Board took a base of nine months? A. Yes, I think they did one time.

114. Q. Why did you change it? A. I don't remember now why we definitely changed it.

115. Q. Production would naturally be less in the six winter months than the six summer months? A. Oh, yes, a lower production.

116. Q. The average determined by those six months would be less than if you took in three of the summer months, and still less if you took in six months in the summer? A. Yes. 10

117. Q. The base is determined on the number of pounds butterfat the producer can sell on the market? A. No. He can sell all he wants to. The base is considered in the proportion that a man's quota would be on the fluid market. I might explain it this way: We will say there is 500,000 pounds of butterfat produced in a month of base milk and the fluid market absorbs 300,000 of that. Well, that 300,000 would work out at 60 per cent. of his base or quota in the fluid market. 20

118. Q. That is all he would get paid for? A. On the fluid market.

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123. Q. You have also remarked that the Board has the power to vary the base. Under what consideration do you cancel or vary? A. Well, we have never cancelled or varied, so I am not in a position to say what we would do in that case.

124. Q. You had that in one of the old Board orders.

MR. MAITLAND: I am going to instruct you not to answer anything in connection with the old Board orders. This action is confined to the present Board. 30

MR. HOSSIE: 125. Q. You refuse to answer that question? A. Yes, I refuse.

126. Q. I reserve my rights on all these questions that you refuse to answer. You do not know why this clause in No. 2 gives the Board power to cancel or vary the base of production of any producer. You do not know the principle under which that power is being exercised? A. No, I don't know when it is being used.

127. Q. I ask on what basis would it be used if it is used at all? A. I am not in a position to answer. 40

128. Q. Do you know? A. No, I don't.

129. Q. Is there anybody on the Board who would know? A. I don't know. There might be.

130. Q. You are the chairman of the Board? A. Yes.

131. Q. Have any principles been adopted or ruling laid down for the exercise of that power? A. I cannot tell offhand.

132. Q. Could you tell by looking through the minute book? A. I might.

133. Q. Would you try that, please, and see if you can answer that question? A. I don't think there has been anything done.

MR. MAITLAND: 134. Q. Mr. Hossie's question is do you find anything in the minutes? A. No, I don't.

10 MR. HOSSIE: 135. Q. You don't know on what principle it would be exercised at all. I suppose that is apparent from the fact you took the power and had the sole discretion? A. I don't see anything in the minutes.

136. Q. There is no discussion about it that you recall? A. Not that I recall.

\* \* \* \* \*

146. Q. Mr. Park, what is the quantity of milk that is produced in the area that is described in your scheme? A. Oh, I could not tell you definitely what the amount is. I would only make a guess if I said anything at all.

20 147. Q. Well, as chairman of the Board, I think your guess would be entitled to some consideration? A. Well, it would be a wide guess, somewhere between eight and nine million pounds of butterfat.

148. Q. A year? A. A year, yes.

149. Q. What does that mean in pounds of milk? A. Well, that would be very hard to estimate. If you divided it probably by four, you might get the cans of milk. Probably between 200 million pounds of milk and 220, we would say, somewhere around there.

30 150. Q. That would be 20 to 22,000 cans of milk? A. Have you got a little bit of paper. About 2,125,000 cans of milk.

151. Q. Cans of milk? A. Yes.

152. Q. 2,125,000 cans of milk in a year? A. In a year, yes. That is making a guess at it. I could not—

153. Q. And the can of milk is figured at what? A. I am just figuring the average of a can of milk as 100 pounds of milk, four per cent. milk.

40 154. Q. What proportion of that goes into the fluid market and what into the manufacture? A. Well, of the total production it would be—do you mean in cans of milk or butterfat?

155. Q. Any way at all. The proportion would be the same, I take it, in either of them? A. Roughly about 45 per cent. I would say.

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156. Q. 45 per cent. fluid, and the balance manufactured. What is the present price in the fluid market? A. Well, the present price is supposed to be 53 cents, I think.

157. Q. That is to the consumer? A. No, that is to the distributor.

158. Q. What is it to the consumer? A. 10 cents.

159. Q. A quart? A. Standard milk.

160. Q. That is 3.25? A. From 3.25 to 3.4.

161. Q. How much for the highest grade? A. 4 per cent. milk, 4.15 is 11 cents; 5 per cent. or over is 13 cents. Those are the standards that are set. A standard 3.25 milk, they can go up to as high as 4 in standardization; 4 per cent. they can go to 4.15 in standardization; and 5 per cent., they can go to 5.15. 10

162. Q. If the milk happens to be 3.75 it is classified on the same basis as 3.25, is it? A. Yes, it is in the same classification, but it is not supposed to be put out—pasteurized milk—at that standard.

163. Q. Those prices you were mentioning are for pasteurized milk? A. Pasteurized milk.

164. Q. Not raw milk? A. Not raw milk. 20

165. Q. The price of raw milk is higher? A: Yes, the price of raw milk up to four per cent., testing up to four per cent. is 11 cents a quart. Over four per cent. it is 13 cents a quart.

166. Q. Those prices are all the Vancouver market? A. Yes.

167. Q. The same in Westminster? A. They are supposed to apply to Greater Vancouver, New Westminster, and North Vancouver.

168. Q. How do they compare with the Chilliwack area? A. Well, the Chilliwack area is different. They have a slightly different price up there. It is all raw milk that is peddled up there, of course, and some districts have a ten cent price. I think most of them have a ten cent price. I am not quite sure whether any of the districts asked for a different price, but I think mostly it is ten cents outside the metropolitan area. 30

169. Q. How much of this milk comes in through the Fraser Valley, I mean the Fraser Valley Milk Producers Association? A. Oh, I don't know. Let us see. I will have to do some figuring, I guess, to arrive at something near a figure. Oh, roughly, I would say about 70 per cent. 40

170. Q. 70? A. 70 per cent. comes through the Fraser Valley.

171. Q. How is that divided between the fluid and the manufacture? A. Well, now, that is a very hard question for me to answer. Oh, about 25-75. I am only giving you approximate figures. I am not dead sure of those figures.

172. Q. 25 fluid and 75 manufactured? A. Yes.

173. Q. That would be correct within what, 10 per cent?  
A. Oh, yes, it would be within 10 per cent. anyhow.

174. Q. Would it be correct within five per cent., do you think? A. Well, I don't know. I would not like to say that definitely. I believe it would be, but I would not like to say that it would be, because it is very hard to carry all those figures in your head.

175. Q. The other day, from your book of licences we  
10 determined there were approximately 2000 licences issued? A.  
Yes.

176. Q. About 1850 to 1900, I think it was, had come  
through the Fraser Valley? A. Yes.

177. Q. You agree with those figures given by Mr. Mac-  
Ginnis, I believe, when you were present some time? A. Well,  
now, I don't remember. I could not state definitely what num-  
ber came through the Fraser Valley.

178. Q. MacGinnis would be the only one that could give  
that? A. Well, yes—Mr. Campbell would be the only man  
20 who could actually give it. He is the man who is responsible  
for that.

179. Q. Do you know whether all Fraser Valley members  
have taken out licences? A. No, they have not all taken out  
licences.

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183. Q. A lot of those producers have specialized in kinds  
of cattle, have they not? One group deal in Guernsey cattle,  
another Jersey cattle and another Holsteins? A. Well, yes,  
there are some that have Holstein cattle, some Jersey and some  
mixed herds.

30 184. Q. That is in this area there have been groups of  
people who produce their milk from Guernsey cattle, for instance,  
and market it as such Guernsey milk? A. I believe there are  
some that do that.

\* \* \* \* \*

185. Q. You have heard of these organizations. You know  
they exist? A. Well, I understand that they call themselves  
that. I don't know what they do, whether they put up Jersey  
milk.

40 186. Q. Mr. Shannon, in this action, you know he keeps  
Ayrshire cattle? A. I could not say definitely. I understand  
he does. I have not been to his barns. I don't know what he  
has got in his barns.

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195. Q. I notice in looking over your minutes that the matter was considered by your Board on the 6th of January of this year, Exhibit 7EE. "Mr. McArthur moved that in view of the greatly increased cost of production the Board forthwith make a price-fixing order which will ensure to the producer an increase of 10 per cent. per pound butterfat on the milk sold on the fluid market and which will provide that any increase to the consumer shall go to the producer, such order to become effective the 15th day of January, 1937. There being no seconder the mover requested that the motion be recorded in the minutes." 10  
Is that the only action taken with regard to price fixing? A. Yes, just that motion moved by Mr. McArthur.

196. Q. So that nothing has been done to date in regard to price fixing? A. No.

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MR. HOSSIE: 223. Q. I am asking for an explanation of this minute, resolved that arrangements be entered into with publishers of "Producer-Consumer" for the publication of this type of material at an expense not to exceed \$50.00 per week.

MR. MAITLAND: What date?

MR. HOSSIE: The 30th of December. 20

MR. MAITLAND: I instruct him not to answer.

MR. HOSSIE: 224. Q. Do you refuse to answer the question? A. I refuse on the instructions of counsel.

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229. Q. In your minutes of January 13th it was moved by Edwards, seconded by Park that Order Number 7 designating the Dairy Products Co-operative Association as the agency through which the regulated product shall be marketed be and is hereby determined and made effective on the date set out therein. Carried, Mr. W. T. McArthur dissenting. Mr. McArthur in dissenting requested that the following reasons therefore be shown in the minutes. "This means a single agency pooling order and is in my opinion neither equitable nor practicable nor at this time in the best interests of the dairy industry." And later on in the same minutes the secretary was instructed to have the Board's solicitors prepare Order Number 7 and request the B. C. Marketing Board to confirm the designation made therein. Has that order been completed yet? 30

MR. MAITLAND: I am instructing him not to answer that.

MR. HOSSIE: 230. Q. What was the date on which that order was made effective? 40

MR. MAITLAND: I am instructing him not to answer.

A. I guess I cannot answer that, from counsel's instructions.

MR. HOSSIE: 231. Q. I want this very clearly on the record then. According to the minutes of this meeting you have passed Order Number 7 for which I ask production. I understand that is refused me. Is that right, Mr. Maitland?

MR. MAITLAND: Yes.

MR. HOSSIE: 232. Q. And I ask you what date that is made effective. As your minutes say, it is made effective on the date set out therein. I am asking the date. You refuse to answer that, too? A. Yes, on counsel's advice.

10 233. Q. Has that date been made public?

MR. MAITLAND: The same objection.

A. Well, I cannot answer it on instructions of counsel.

MR. HOSSIE: 234. Q. The position then is this, Mr. Park—you can surely answer this—that an Order has been made Numbered 7, by your Board, appointing a single agency effective as of a fixed date, and you refuse to tell me what that date is or produce the Order?

MR. MAITLAND: I am instructing him to refuse to answer any question relating to any orders passed after the 12th  
20 of November, 1936.

MR. HOSSIE: And specifically you are instructing him not to answer my question now.

MR. MAITLAND: Yes.

MR. HOSSIE: 235. Q. You refuse to produce Order 7 or tell me anything about the contents of it?

MR. MAITLAND: Correct.

MR. HOSSIE: I am afraid I will have to apply, Mr. Maitland.

MR. MAITLAND: Then I will find out whether I am right  
30 or wrong.

MR. HOSSIE: 236. Q. Who are the Dairy Products Co-operative Association? A. Well, they are an incorporated company under the Co-operative Act.

237. Q. Under the Co-operative Act? A. Yes.

238. Q. When were they incorporated? A. I could not tell you the date. You can get it.

239. Q. Recently?

MR. MAITLAND: What has that got to do with this action, Mr. Hossie?

40 MR. HOSSIE: Well, it would be very material, Mr. Maitland.

MR. MAITLAND: They are not parties. They are not referred to in the pleadings.

MR. HOSSIE: They apparently have been given control of all the milk in the area controlled by this Board. I submit it is very material—at least they may be given it on a certain date

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and they may have it already for all I can tell from this witness' answers. I do not know what the effective date is.

MR. MAITLAND: You are still referring to an order after the 12th of November.

MR. HOSSIE: I am now asking the question about a company, a Co-operative Association that was incorporated some time ago, prior to the date.

MR. MAITLAND: I am instructing him not to answer.

MR. HOSSIE: 240. Q. Are you a member of that Co-operative Association? 10

MR. MAITLAND: I instruct him not to answer that.

MR. HOSSIE. 241. Q. Do you refuse to answer that?

A. Yes, on counsel's instructions.

242. Q. Are you a director of that Association?

MR. MAITLAND: I instruct him not to answer.

MR. HOSSIE: 243. Q. Again you refuse to answer on the advice of counsel? A. Yes.

244. Q. Are you personally interested in that Corporation in any way; as a director or officer or in any way whatsoever in that Association? 20

MR. MAITLAND: I am instructing you not to answer that.

A. Well, I cannot answer you on counsel's instructions.

MR. HOSSIE: 245. Q. Is there any other member of the Board interested in that Co-operative Association in any way?

MR. MAITLAND: Refuse to answer.

A. I cannot answer under counsel's instructions.

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250. Q. Have you made any distinction in your dealing with producers or anybody whom you licence in connection with milk in this area—have you made any distinction between domestic and export—made any provision in case anybody exports milk? A. No, we have not made any. 30

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MR. MAITLAND: Mr. Hossie, do you mean—I did not quite get the sense of that—any distinction between people supplying the local market, and the export market. Is that it?

MR. HOSSIE: Yes.

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312. Q. Will you produce Order No. 7, please? A. I guess that is it.

(ORDER MARKED No. 7JJ FOR IDENTIFICATION)

313. Q. Have you any copies of this? A. There is a copy there, isn't there? 40

314. Q. How many of these may I keep? A. You may keep both of them.

315. Q. I notice this Order No. 7 is not signed by Mr. McArthur, but only signed by yourself and Edwards. A. Yes.

316. Q. It is right Mr. McArthur did not sign this order, is it? A. No, he didn't.

317. Q. So this is passed by a majority of two, is it? A. Yes.

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10 323. Q. Now what is this concern known as the Dairy Products Co-operative Association you refer to in Order No. 7? A. It is a co-operative company.

324. Q. Incorporated under what? A. The Co-operative Act.

325. Q. When was it incorporated? A. In August 1935.

326. Q. By whom? A. By the subscribers to the memorandum.

327. Q. Who were they? A. They were Mr. Davidson, Mr. McArthur, Mr. Bose, Mr. Allen and myself.

20 328. Q. Now Davidson and McArthur, to whom you refer, were then members of the Milk Board? A. Yes.

329. Q. And you were another member? A. Yes.

330. Q. And the three of you were members of the Board? A. Yes.

331. Q. And who was Bose? A. Bose was a producer in Surrey.

332. Q. What is his first name? A. I think it is Henry Bose or Harry Bose.

333. Q. Is he a member of the Fraser Valley Milk Producers Association? A. Yes.

30 334. Q. And a shareholder? A. Yes.

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337. Q. And who is Allen? A. Allen lives in Chilliwack. I just forget his initials. I think it is W. J. Allen.

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339. Q. Is he a milk producer? A. Yes, he is a milk producer.

340. Q. And is he living at Chilliwack yet? A. Yes, he is still living at Chilliwack.

341. Q. How did he happen to join with you in this concern? A. Well, he joined at the invitation of the other members.

40 342. Q. The other four? A. Yes.

343. Q. Or some one or more of you? A. Well, I wouldn't say how many of us, but he was asked to join the members of the company.

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344. Q. Did you each subscribe a share or an interest?  
 A. Yes.
345. Q. You each took ten shares apiece, didn't you?  
 A. Yes.
346. Q. And have any more shares been allotted since?  
 A. No.
347. Q. Just the five of you were interested in this concern?  
 A. Yes.
348. Q. And Davidson is no longer a member of the Milk Board?  
 A. Yes, and I might say this, those shares of Mr. Davidson were transferred to Mr. Edwards. 10
349. Q. And who are the present members?  
 A. Mr. McArthur, Mr. Edwards, Mr. Bose, Mr. Allen and myself.
350. Q. And who are the present directors?  
 A. The five that I have named.
351. Q. And your interests are all equal then?  
 A. Yes.
352. Q. Ten shares apiece?  
 A. Yes.
353. Q. What are they—dollar shares?  
 A. Yes.
354. Q. And when was the change made from Davidson to Edwards?  
 A. After Mr. Edwards came on the Board—that would be after the last election, at the end of March. 20
355. Q. Where are the offices of this concern?  
 A. I believe they are 804 Credit Foncier Building.
356. Q. That is the same office as the Milk Board?  
 A. Yes.
357. Q. What rent does it pay for its office space?  
 A. Well, I don't know that it has paid very much. I cannot tell you offhand whether it has paid anything or not.
358. Q. Well, do you know whether anything has been charged up in the way of rent to them?  
 A. I don't think so. 30
359. Q. Who are the officers among you five? Have you got a president?  
 A. Yes, Mr. Bose, I think, is the president.
360. Q. And who is the vice-president?  
 A. Mr. Allen.
361. Q. And any other officers?  
 A. I don't know who the secretary is.
362. Q. I suppose you have appointed Mr. MacGinnis secretary, have you?  
 A. I think probably Mr. MacGinnis was appointed secretary. Do you remember that, Mr. MacGinnis? Yes, Mr. MacGinnis was the secretary.
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367. Q. Has this Association got its own letter paper?  
 A. I don't think so. 40
368. Q. Has it a telephone?  
 A. No.
369. Q. Is it listed in the book?  
 A. In what book—the telephone book?
370. Q. Yes.  
 A. No, I don't think so.

371. Q. It just uses the Board's telephone? A. Well, it hasn't done any business yet.

372. Q. Well, supposing anyone wants to get in touch with it they would have to call up on the Board 'phone, would they? A. Well, I don't know. They would probably have to write a letter; there is no 'phone.

373. Q. Or call at the Board office? A. Yes.

\* \* \* \* \*

376. Q. Now has Order No. 7 been approved by the B. C. Marketing Board at Victoria? A. No.

10 377. Q. Has it been disallowed? A. Well, I wouldn't say it has been disallowed, but I think the personnel of the Board has been questioned by the Minister. We have to meet the Provincial Board and discuss it with them.

\* \* \* \* \*

MR. HOSSIE: 379. Q. Well, as far as the Board is concerned it is its contention to make this order No. 7 effective two weeks from today? A. Yes.

380. Q. And after that date it will be illegal for any person to market milk except through this Association? A. That is what the order says.

20 381. Q. You know, of course, that there are other agencies and people handling milk? A. Well, I don't know of any agency not designated by this Board.

\* \* \* \* \*

415. Q. Do you remember this formal letter which was sent by the Fraser Valley Producers by your order? A. I remember that there was such a letter going to be sent out.

416. Q. And this was sent with the consent of the Board, was it, and with the knowledge of the Board? A. What Board?

30 417. Q. The Milk Board? A. No, not the Milk Board. That was the Fraser Valley Board.

418. Q. Well, did the Milk Board receive any of these moneys from the Fraser Valley? A. Well, now, I don't know. I presume some licence fees came into the Milk Board, but I could not tell you where they went to—whether they went to the Fraser Valley or whether they came direct to the Milk Board.

419. Q. But you knew this letter was being sent out at the time? A. I knew of a letter—

420. Q. And January 29th was the last day for sending it in? A. Yes, I heard of them sending out such a letter.

40 MR. HOSSIE: Just mark that.

(LETTER MARKED 8 FOR IDENTIFICATION)

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421. Q. How many licences are there at the present moment? A. Well, this morning there were 2088 actually paid licences.

422. Q. And how many of those were 25 cent licences? A. Well, I couldn't tell you. I don't know what percentage it would be, and I couldn't make a guess of what it would be.

\* \* \* \* \*

427. Q. Has the price of milk gone up or down since this new Board came into existence.

MR. HUTCHESON: The price to whom?

MR. HOSSIE: 428. Q. To the consumer? A. Well, I couldn't tell you. I don't know what the distributors are doing, but I would imagine the price is still about the same. I don't know. 10

429. Q. Well, has the price to the producer gone up or down? A. Well, not to my knowledge. I could not say whether the distributors are paid any more for their milk or not.

430. Q. What moneys have been collected by your Board to date? A. Well, I couldn't tell you that amount.

431. Q. Who would know that? A. Mr. Campbell.

432. Q. Would Mr. MacGinnis know that? A. I don't know. Would you know that, Mr. MacGinnis? Yes, between \$9,500 and \$10,000. 20

433. Q. What is that figure again? A. Between \$9,500 and \$10,000.

\* \* \* \* \*

453. Q. Well, explain that, please. Your present licence is to run for a year, isn't it? A. Yes.

454. Q. Starting the 26th October? A. Yes, sure.

455. Q. And it is good until the end of the year—the end of its first year, which would be the end of October 1937? A. Yes. 30

\* \* \* \* \*

459. Q. But after the 26th October, 1937, apparently he will have to take out another licence for a year? A. Yes.

\* \* \* \* \*

468. Q. I am putting as a concrete example a man who, according to your rating, is rated at 500 pounds in respect of the year 1936; and in January 1937 by some means and continuously throughout 1937 he manages to raise his production up to 1000 pounds— A. Yes.

469. Q. And he gets no benefit for that until January 1938? A. No.

470. Q. That is correct? A. Yes. 40

\* \* \* \* \*

486. Q. Then I am correct when I say that the licence fee is based upon the pounds of milk and not upon the butterfat, am I? A. Just what is that again?

488. Q. Read it.

(Question 487 read by reporter.)

A. Whatever the order says there.

489. Q. Will you read it, please? It is your own order.

A. All producers hereby classified into the following groups and all producers whose base of production shall be determined by 100 pounds or less. That is what it is—what it says there.

490. Q. Pounds of what? A. Well, it says—well, it doesn't say whether it is pounds of butterfat or milk.

491. Q. Well, that is why I am asking you what it means.

A. Well, I would imagine it meant milk.

\* \* \* \* \*

496. Q. Well, taking No. 3, in what group does that man come? A. Well, I don't know what group he would come in, because I don't know what he produces or what his percentage of butterfat is. A man with 100 pounds base there, he might have a 5% test, and another man might only have a 3% test.

20 497. Q. And he pays the same licence fee? A. Yes.

\* \* \* \* \*

505. Q. Well, I don't see it yet. You haven't made it clear to me. You take two men—if I understand you correctly, I take it we have something in common between us. These figures refer to one day's production, do they? A. Yes.

506. Q. All right. One man produces 100 pounds of milk. You figure a can is 100 pounds? A. Yes.

507. Q. And man A produces one can of 100 pounds one day? A. Yes.

508. Q. Or that is his average per day? A. Yes.

30 509. Q. And another man B produces one can a day? A. Yes.

510. Q. But the butterfat content for the man A is 5% and for the man B 3%? A. Yes.

511. Q. Now do they pay the same licence fee? A. Yes.

512. Q. And if the butterfat in this can of milk of this man A goes up to 6%, he does not have to pay any higher licence? A. No.

40 513. Q. And if the other man B's butterfat content went down 1%, he would still pay on the basis of 100 pounds? A. Yes.

514. Q. So I don't understand what you say—when you say it is based on butterfat. If a man produces 100 pounds of

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milk per day he comes within this Group 1? A. Yes.

515. Q. So the licence fee is the same in each case, no matter what the butterfat is? A. Yes.

516. Q. And no matter what the difference is, the fee is the same? A. Yes. It does not matter whether it is 3% or 5%.

517. Q. And the base which deals with butterfat is another matter altogether, is it? A. No, it is base.

518. Q. Well, how does the man who produces the 5% milk for his 100 pounds and the man who produces the 3% for his 100 pounds compare when it comes to returns? A. Well, the man who produces the 3% gets a great deal less. 10

519. Q. Where does that come into account? A. One man who has shipped 3 pounds of butterfat and another man who ships 5—it is the butterfat that counts.

520. Q. And in the matter of participation in the fluid market, do they participate on the same basis? A. Well, the 100 pound man, with 3%—if the market absorbs the 5% he will get 50 pounds of milk and 1½% butterfat, and the man with 5% milk he will get 50 pounds with 2½% butterfat. 20

521. Q. Well, who makes that distribution? A. Well, the distributors, I presume.

522. Q. Well, does that prevail at the present moment? A. Yes.

523. Q. And are they forbidden to pay the 5% man any more than that, or must they distribute according to this basis? A. Well, I really couldn't tell you what they are doing, Mr. Hossie, because I am not in their—I don't get information from them, but I imagine that a man who ships 5 pounds of butterfat he is being paid for 5 pounds of butterfat on this basis. 30

524. Q. Well, on this quota basis he would be cut down 50% and if he shipped 5 pounds he would only be paid on 2½? A. Yes.

525. Q. Who pays him? A. The Agency.

526. Q. Through whom the milk is sold? A. Yes.

527. Q. But that is not done through the Board order? A. No.

528. Q. It is not effective today? A. Well, there is no Board order today.

529. Q. And that is not dealt with by this Board as of February 1st, is it? It is not in operation at the present moment? A. Not as far as the Board is concerned, no. 40

530. Q. But the principle is the one that you are trying to work out as a Board, that you divide the fluid market up according to the basis that has been fixed by your Board? A. Yes, that is the idea. The scheme says you determine the

quantity or quality that a man may put on the market.

531. Q. And that is the basis on which the distribution should be made, according to the Board's views? A. Yes.

532. Q. And is that the basis which you propose to adopt under the single selling agency? A. Well, I couldn't tell you that, because up to the present time the Board has come to no decision as to what method they will use.

533. Q. Well, normally that would be the normal course? A. I would imagine it would be something along that line.

10 534. Q. Who actually fixes these bases? Do you do it?

A. The Board has done it before, yes.

535. Q. Well, it is done in the office, I take it, as a matter of routine from old records? A. Well, it is from the records of the producers alone. It is their own records, of their own production.

536. Q. Well, do the three members of this Board bring their minds to bear on this problem, or is it a matter of routine? A. It is done by the staff in the office.

537. Q. For instance, you don't do it? A. No.

20 538. Q. For instance, you have never considered what group Shannon falls into, or McDermid? A. No. It is done by the office. They have their instructions.

539. Q. What do the producers get at the present moment for a pound of butterfat? A. Well, I couldn't tell you, Mr. Hossie. I don't know what they are getting.

540. Q. Well, under the old Board you had a spread of 18 cents, wasn't it, or 22? A. No, the spread was the difference between the price charged by the producer and the price sold to the consumer.

30 541. Q. Well, it was fixed by the old Board at 18 cents, wasn't it? A. No. I have forgotten what the price was. It was more than that.

542. Q. The distributors' spread? A. Well, that would be the spread between the distributor and the consumer, 22.8—but I am not sure.

543. Q. Approximately 22 cents. And what does the producer get? A. Well, out of that—that was based on the producer getting 53 cents per pound butterfat.

40 544. Q. The producer getting that? A. Yes, for his fluid milk.

545. Q. 53—and 22 on top of that makes 75? A. No, this is 22 cents a gallon, you see. This is 53 cents per pound.

546. Q. And you have to convert it. Can you convert that? I want to understand it. A. Well, that would be—have you got a piece of paper there for me now and maybe I could work it out. The distributor would pay the producer 53 cents

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a pound. I have worked it out on 4%. A can of 4% milk, that would be \$2.12 that he would pay for that can of milk. He would sell that for \$4.26—\$4.26, I should say, per can—and he would get \$2.12. That is 41—he would get \$2.14 over and above the cost of his product.

547. Q. The producer would get \$2.12— A. And the distributor \$2.14.

548. Q. And the consumer pays \$4.26? A. Yes, \$4.26. I think that is about what they claim—38.8 quarts in a 10 gallon can of milk.

MR. HOSSIE: You might mark that.

(DOCUMENT MARKED 9 FOR IDENTIFICATION)

549. Q. In the manufactured market, however, the price of course is much lower? A. Yes.

550. Q. And what do they get for a can of milk on the condensed milk market? A. Oh, I could not tell you offhand. That range is governed by the butter price. Whatever the price of butter is it more or less establishes the market.

551. Q. And of course if the price of butter is low the price is less? A. Yes, if the butter price is low, it makes it less, and they make it into cheese.

552. Q. Well, what was the average last year to its members—33 or 34 cents? A. I could not exactly tell you what they got last year.

553. Q. Do you remember approximately what it was? A. No, I couldn't tell you.

554. Q. Well, my figures may not be right. A. I could not tell you. I think perhaps we got somewhere between 33 and 34 cents. I am not just sure—that is the farmer, and of course he has his freight to pay.

555. Q. Well, is the freight payable out of this \$2.12 too? A. Yes.

556. Q. He has to pay his freight out of that also? A. Yes.

557. Q. What does the freight amount to from Chilliwack to Vancouver? A. Well, that varies somewhat for one haul and for another. I don't know what the actual price is.

558. Q. Can you give me an example? A. No.

559. Q. What freight do you pay yourself? A. Myself? I pay 16 cents on 100.

560. Q. 16 on 100 pound can? A. Yes.

561. Q. And how far is your place from Vancouver? A. 22 or 23 miles.

562. Q. And that is less than Chilliwack? A. Yes.

563. Q. Your net on that basis then would be under \$2? A. Yes.

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564. Q. Is there anything else to be deducted from that \$2.12? A. Oh, there is the agency cost, which is deducted from it, I presume—the agency charges a certain amount. I don't know what they all charge.

565. Q. That is for the actual work of handling the milk? A. Yes, and that has to come out of it, of course.

566. Q. Well, that is the remuneration for the services done in the distribution, out of the money to the producer? A. Yes, whatever they have to do, the different agencies. They make certain deduction.

MR. HOSSIE: Subject to an application that is all I want to ask Mr. Park, but I want to know, however, if you will produce Mr. Campbell for examination. It will not be very long, but there are some questions which Mr. Park could not answer and that he had to leave to Mr. Campbell.

MR. HUTCHESON: I will have to consult with Mr. Maitland.

(EXAMINATION ADJOURNED SINE DIE.)

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No. 21

In the  
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REASONS FOR JUDGMENT OF  
THE HONOURABLE MR. JUSTICE MANSON

No. 21  
Reasons for  
Judgment  
Manson, J.  
May 28, 1937

The plaintiffs are "producers" under the "Milk Marketing Scheme of the Lower Mainland of British Columbia," a scheme approved by the Lieutenant-Governor in Council under the Natural Products Marketing (British Columbia) Act on the 27th October, 1936. The defendant is the "Marketing Board" authorized to administer the said scheme.

The plaintiffs ask that the aforementioned Act (including the amendment thereto passed at the first session of the Legislature in 1936) be declared *ultra vires* and consequently a declaration that they are under no obligation to comply with orders of the defendant and an injunction to restrain the defendant from collecting from the plaintiffs licence fees or other charges and from otherwise interfering with the plaintiffs in the marketing within the Province of milk or milk products. 10

In the action of *Hayward et al v. B. C. Lower Mainland Dairy Products Board* this Court held this day that the Natural Products Marketing (British Columbia) Act and amendments thereto is *ultra vires*. 20

The Declarations asked for are made and the injunction granted—Costs to the plaintiffs.  
29th May, 1937.

A.M.M., J.

JUDGMENT

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID,  
Plaintiffs,

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD,  
Defendant.

10

BEFORE THE HONOURABLE } Saturday, the 29th day of  
MR. JUSTICE MANSON } May, A.D. 1937.

20 This action coming on for trial on Tuesday, the 16th day  
of February, 1936, in the presence of D. N. Hossie, Esq., K.C.,  
and Mr. J. E. T. McMullen, of Counsel for the Plaintiffs, R. L.  
Maitland, Esq., K.C., and Mr. J. G. A. Hutcheson, of Counsel  
for the Defendant, and C. W. Craig, Esq., K.C., of Counsel for  
the Attorney-General of British Columbia, no one appearing for  
the Attorney-General of the Dominion of Canada though duly  
served with notice in accordance with the Constitutional Questions  
Determination Act, R. S. B. C. 1924, Chapter 46, as appears  
in the Affidavit of Edmund Freeman Newcombe sworn the 27th  
day of January, 1937, filed herein and the Exhibit thereto, and  
being continued on Wednesday the 17th day of February, 1937,  
in the presence of Counsel aforesaid, UPON READING the  
pleadings and UPON HEARING the evidence adduced by the  
parties and UPON HEARING what was alleged by Counsel  
aforesaid, and Judgment being reserved to this date:

30 THIS COURT DOTH ORDER AND DECLARE THAT:  
(a) The Natural Products Marketing (British Columbia)  
Act and the Natural Products Marketing (British Columbia)  
Act Amendment Act 1936 are ultra vires of the Legislature of  
the Province of British Columbia;

(b) The Plaintiffs are under no obligation to register with  
or obtain licences from the Defendant or to pay any licence fees

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or other charges levied or demanded by the Defendant or otherwise to comply with any rules, regulations and/or orders made or issued or to be made or issued by the Defendant nor to comply with any demands from the Defendant under the authority of the Natural Products Marketing (British Columbia) Act and/or the Natural Products Marketing (British Columbia) Act Amendment Act 1936.

AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that the Defendant be and is hereby restrained from collecting from the Plaintiffs or either of them any licence fees or other charges, or otherwise interfering with the Plaintiffs in the marketing, within the Province of British Columbia, of milk and/or products manufactured from milk produced in British Columbia. 10

AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that the Plaintiffs do recover from the Defendant their costs of this action forthwith after taxation thereof.

“A.M.M.”

BY THE COURT

“Approved as amended  
J.G.A.H.” for Deft.

J. F. MATHER  
District Registrar

20

“A.M.M., J.”

Entered  
June 16, 1937.  
Order Book, Vol. 100, Fol. 72.  
Per “E.R. O’C.”

S.C. B.C. Seal

## NOTICE OF APPEAL

*In the  
Supreme Court  
of British  
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No. 23  
Notice of  
Appeal  
July 30, 1937

TAKE NOTICE that the (Defendant) Appellant intends to appeal, and does hereby appeal from the Judgment of the Honourable Mr. Justice Manson pronounced herein on the 29th day of May, A.D. 1937, whereby it was ordered and declared that:

10 (a) The Natural Products Marketing (British Columbia) Act and the Natural Products Marketing (British Columbia) Act Amendment Act, 1936, are ultra vires of the Legislature of the Province of British Columbia;

(b) The Plaintiffs are under no obligation to register with or obtain licences from the Defendant or to pay any licence fees or other charges levied or demanded by the Defendant or otherwise to comply with any rules, regulations and/or orders made or issued or to be made or issued by the Defendant nor to comply with any demands from the Defendant under the authority of the Natural Products Marketing (British Columbia) Act and/or the Natural Products Marketing (British Columbia) Act Amend-  
20 ment Act 1936;

And whereby it was further ordered and adjudged that the Defendant be and is hereby restrained from collecting from the Plaintiffs or either of them any licence fees or other charges, or otherwise interfering with the Plaintiffs in the marketing, within the Province of British Columbia, of milk and/or products manufactured from milk produced in British Columbia; and that the Plaintiffs do recover from the Defendant their costs of this action forthwith after taxation thereof.

30 AND FURTHER TAKE NOTICE that a motion will be made to the Court of Appeal at the Law Courts in the City of Victoria, Province of British Columbia, on Tuesday, the 14th day of September, 1937, at the hour of eleven o'clock in the forenoon, or so soon thereafter as Counsel can be heard on behalf of the (Defendant) Appellant that the judgment herein against the said (Defendant) Appellant be reversed, and that the (Plaintiffs') Respondents' action be dismissed with costs on the following, amongst other grounds:

1. That the said Judgment is against the evidence.
2. That the said Judgment is against the law.
- 40 3. That the said Judgment is against the law and the evidence.
4. That the said Judgment was against the weight of evidence.
5. That there was no evidence to support the Judgment.



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6. That the learned Trial Judge erred in holding the Natural Products Marketing (British Columbia) Act and the Natural Products Marketing (British Columbia) Act Amendment Act of 1936 are ultra vires of the legislature of the Province of British Columbia.

7. That the learned Trial Judge erred in holding that the plaintiffs are under no obligation to register with or obtain licences from the Defendant or to pay any licence fees or other charges levied or demanded by the Defendant or otherwise to comply with any rules, regulations and/or orders made or issued or to be made or issued by the Defendant nor to comply with any demands from the Defendant under the authority of the Natural Products Marketing (British Columbia) Act and/or the Natural Products Marketing (British Columbia) Act Amendment Act, 1936. 10

8. That the learned Trial Judge erred in holding that the Defendant be restrained from collecting from the Plaintiffs, or either of them, any licence fees or other charges, or otherwise interfering with the Plaintiffs in the marketing within the Province of British Columbia of milk and/or products manufactured from milk produced in British Columbia. 20

9. That the learned Trial Judge should have dismissed this action with costs.

DATED at the City of Vancouver, British Columbia, this 30th day of July, A.D. 1937.

“R. L. MAITLAND,”

Solicitor for (Defendant) Appellant.

To: The (Plaintiffs) Respondents.  
 And to: Ghent Davis, Esq., their Solicitor.

No. 24

COURT OF APPEAL

ORAL REASONS FOR JUDGMENT

RECORD

*Court of  
Appeal*

No. 24  
Oral Reasons  
for Judgment  
the Honorable  
the Chief  
Justice  
Aug. 10, 1937

<p>GEORGE WALKEM SHANNON, THOMAS HEDLEY McDONALD and MATTHEW BLACKWOOD McDERMID</p> <p style="text-align: center;">v.</p> <p>LOWER MAINLAND DAIRY PRODUCTS BOARD</p>	}	<p>JUDGMENT OF THE HONOURABLE THE CHIEF JUSTICE</p>
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10        We feel there is nothing for us to do under these circumstances but to hold that the injunction cannot stand, and the appeal will have to be allowed. That is our opinion.

RECORD

COURT OF APPEAL

Court of  
Appeal

No. 25  
Judgment  
Aug. 10, 1937

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID,  
Plaintiffs (Respondents)

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD  
Defendant (Appellant)

CORAM:

THE HONOURABLE THE CHIEF JUSTICE OF  
BRITISH COLUMBIA 10  
THE HONOURABLE MR. JUSTICE McPHILLIPS  
THE HONOURABLE MR. JUSTICE MACDONALD

No. 25

JUDGMENT

VICTORIA, B.C., the 10th day of August, 1937.

THE APPEAL from the Judgment of the Honourable Mr. Justice Manson pronounced on the 29th day of May, 1937, coming on for hearing this day, and UPON HEARING Senator J. W. de B. Farris, K.C., of Counsel for the Honourable the Attorney-General for the Province of British Columbia, and R. L. Maitland, Esq., K.C., and J. G. A. Hutcheson, Esq., of Counsel for the Appellant, and D. N. Hossie, Esq., K.C., and J. E. T. McMullen, Esq., of Counsel for the Respondents, and upon reading the Appeal Book: 20

THIS COURT DOTH ORDER AND ADJUDGE that the said appeal be and the same is hereby allowed and the said Judgment set aside and this action dismissed with costs here and below to be paid by the Respondents to the Appellant forthwith after taxation thereof. 30

B.C.L.S.  
\$1.10  
Victoria  
Sept. 16, 1937  
Registry  
Seal C. of A.  
"A.M." C.J.B.C.

BY THE COURT,  
"B. H. Tyrwhitt Drake,"  
REGISTRAR.  
"O.B." D.R.  
Entered Sept. 16, 1937.  
Vol. 5, Fol. 410  
By "G.H.M."

## COURT OF APPEAL

No. 26

## CONDITIONAL ORDER FOR LEAVE TO APPEAL

CORAM:

THE HONOURABLE THE CHIEF JUSTICE OF  
BRITISH COLUMBIA,  
THE HONOURABLE MR. JUSTICE M. A. MACDONALD,  
THE HONOURABLE MR. JUSTICE McPHILLIPS.

VICTORIA, B.C., the 10th day of August, 1937.

10 UPON THE MOTION of the above-named Plaintiffs  
(Respondents) AND UPON HEARING D. N. Hossie, Esq., K.C.,  
of Counsel for the said Plaintiffs (Respondents), and R. L.  
Maitland, Esq., K.C., of Counsel for the Defendant (Appellant),  
and Senator J. W. de B. Farris, K.C., of Counsel for the Attorney  
General of British Columbia:

THIS COURT DOTH ORDER that subject to the perform-  
ance by the said Plaintiffs (Respondents) of the conditions  
hereinafter mentioned, and subject to the final Order of this  
Court upon the due performance thereof, leave to appeal to His  
20 Majesty in Council against the Judgment of this Honourable  
Court be granted to the Plaintiffs (Respondents).

AND THIS COURT DOTH FURTHER ORDER that the  
said Plaintiffs (Respondents) do within three months from the  
date hereof enter into good and sufficient security to the satis-  
faction of this Court in the sum of £500/0/0 Sterling for the due  
prosecution of the said appeal and the payment of all such costs  
as may become payable to the Defendant (Appellant) in the  
event of the Plaintiffs (Respondents) not obtaining an Order  
granting them final leave to appeal or of the appeal being dis-  
30 missed for non-prosecution or of His Majesty in Council ordering  
the Plaintiffs (Respondents) to pay the costs of the appeal of  
the Defendant (Appellant).

AND THIS COURT DOTH FURTHER ORDER that the  
Plaintiffs (Respondents) do within three months from the date  
hereof take the necessary steps for the purpose of procuring the

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preparation of the Record and the despatch thereof to England.

AND THIS COURT DOTH FURTHER ORDER that the Plaintiffs (Respondents) shall upon compliance with the afore-said conditions be at liberty, within three months from the date hereof, to apply for a final Order for leave to appeal.

BY THE COURT,

“B. H. Tyrwhitt Drake,”

REGISTRAR.

“R.L.M.” for Defendant  
“O.B.” D.R.  
Victoria,  
Sept. 18, 1937,  
Registry  
Entered Vol. 5, Fol. 415  
20-9-37  
By “G. Hill”

“A.M.” C.J. B.C.  
Seal of the  
Court of Appeal

10

## COURT OF APPEAL

No. 27

REGISTRAR'S CERTIFICATE OF COMPLIANCE  
WITH ORDER

RECORD

*Court of  
Appeal*No. 27  
Registrar's  
Certificate as  
to Security  
Sept. 27, 1937

I HEREBY CERTIFY that the above named Plaintiffs (Respondents) have duly complied on its part with the terms of the Order of this Honourable Court dated herein the 10th day of August, 1937, in that the said Plaintiffs (Respondents) have provided security to my satisfaction in the sum of Five  
 10 Hundred pounds Sterling for the due prosecution of its Appeal to His Majesty in His Privy Council, from the Judgment herein of this Honourable Court dated the 10th day of August, 1937, and for the payment of all such costs as may become payable to the Defendant (Appellant) in the event of the Plaintiffs (Respondents) not obtaining an Order granting them final leave to appeal or of the Appeal being dismissed for non-prosecution, or of His Majesty in Council ordering the Plaintiffs (Respondents) to pay the costs of the Appeal of the Defendant (Appellant), by depositing with the Court the Bond of The  
 20 Guarantee Company of North America, for the sum of Five Hundred pounds Sterling.

DATED at Victoria, B.C., this 27th day of September, 1937.

"Oswald Barton,"

Deputy Registrar.

RECORD

## COURT OF APPEAL

*Court of  
Appeal*

No. 28

REGISTRAR'S CERTIFICATE AS TO SETTLING  
TRANSCRIPT RECORDNo. 28  
Registrar's  
Certificate  
as to Settling  
Transcript  
Record  
Oct. 23, 1937

I, the undersigned Registrar at Victoria of the Court of Appeal, DO HEREBY CERTIFY that the above mentioned Plaintiffs (Respondents) have duly complied on their part with the terms of the order of this Honourable Court, dated herein the 10th day of August, 1937, and that the foregoing is a transcript of the Record of Proceedings in this Action for the purpose of appeal to His Majesty in Privy Council herein as prepared and settled by this Court. 10

I FURTHER CERTIFY that upon the hearing of the appeal to the said Court of Appeal from the Order of the Honourable Mr. Justice Manson made herein on the 29th day of May, 1937, the only reasons given for the Judgment of the said Court of Appeal delivered on the 10th day of August, 1937, were the oral reasons for Judgment of the Court delivered by the Honourable the Chief Justice.

DATED at Victoria, B.C., this 23rd day of October, A.D. 20  
1937.

“Cleeve G. White”,  
REGISTRAR.

## COURT OF APPEAL

No. 29

## FINAL ORDER FOR LEAVE TO APPEAL

RECORD

*Court of  
Appeal*No. 29  
Final Order  
for Leave to  
Appeal

Nov. 2, 1937

CORAM:

THE HONOURABLE THE CHIEF JUSTICE OF  
BRITISH COLUMBIA

THE HONOURABLE MR. JUSTICE McPHERSON

THE HONOURABLE MR. JUSTICE MACDONALD

THE HONOURABLE MR. JUSTICE McQUARRIE

10 THE HONOURABLE MR. JUSTICE SLOAN

Vancouver, B.C., the 2nd day of November, A.D. 1937.

UPON READING the Notice of Motion of the Defendant (Appellant) dated the 29th day of October, 1937; and upon reading the Order made herein on the 10th day of August, 1937, and the Certificate of the Deputy Registrar dated the 27th day of September, 1937, and the Certificate of the Registrar dated the 23rd day of October, 1937, AND UPON hearing Mr. Ghent Davis of Counsel for the Plaintiffs (Respondents) and Mr. R. L. Maitland, K.C. of Counsel for the Defendant (Appellant):

20 THIS COURT DOTH ORDER that final leave to appeal to His Majesty in Council from the Judgment pronounced herein on the 10th day of August, 1937, be and the same is hereby granted to the said Plaintiffs (Respondents).

Minutes filed.

Checked

by "G.H.M."

Victoria

Nov. 17, 1937

Registry

30 B.C.L.S. \$1.10

Seal of

Court of Appeal,

British Columbia.

BY THE COURT

"Cleeve G. White",

REGISTRAR.

Entered Vol. 5, Fol. 444.

Date 17-11-37.

By "G.H.M."



EXHIBIT 5

“NATURAL PRODUCTS MARKETING (BRITISH COLUMBIA) ACT”

(B. C. Statutes, 1934, Chap. 38)

PROVINCIAL MILK MARKETING SCHEME

November 21st, 1934

(Printed copy of Milk Marketing Scheme is in folder at the back of Record.)

RECORD

*In the  
Supreme Court  
of British  
Columbia*

Plaintiffs'  
Exhibit  
No. 5  
Provincial  
Milk  
Marketing  
Scheme  
Nov. 21, 1934

EXHIBIT 6

10

PROVINCE OF BRITISH COLUMBIA

“NATURAL PRODUCTS MARKETING (BRITISH COLUMBIA) ACT.”

A Scheme to regulate the Marketing of Milk and Products processed or manufactured wholly or chiefly from Milk and produced in a Described Area of the Province of British Columbia

October 27th, 1936

(Printed copy of above-mentioned Milk Marketing Scheme is in folder at the back of Record.)

Plaintiffs'  
Exhibit  
No. 6  
Provincial  
Milk  
Marketing  
Scheme  
Oct. 27, 1936

## RECORD

## EXHIBIT 9

*In the  
Supreme Court  
of British  
Columbia*

Plaintiffs'  
Exhibit  
No. 9  
Minutes of  
Meeting of  
Defendant  
Board  
Oct. 27, 1936

Minutes of the inaugural meeting of the Lower Mainland Dairy Products Board, held at the office of the Board, 804 Credit Foncier Building, 850 West Hastings Street, Vancouver, B.C. at 12.00 noon, Tuesday, October 27th, 1936.

Present:

Messrs. W. J. Park  
W. T. McArthur  
T. M. Edwards

Moved by Mr. W. T. McArthur and seconded by Mr. T. M. Edwards that Mr. Park act as Chairman. Carried. 10

Moved by Mr. W. T. McArthur and seconded by Mr. Park that Mr. Edwards act as Secretary of the meeting. Carried.

Moved by Mr. T. M. Edwards and seconded by Mr. W. T. McArthur that Mr. Park be Chairman of the Board. Carried.

Moved by Mr. T. M. Edwards and seconded by Mr. W. J. Park that Mr. McArthur be Vice-Chairman of the Board. Carried.

Moved by Mr. W. T. McArthur and seconded by Mr. T. M. Edwards that the firm of Messrs. Maitland, Maitland, Remnant & Hutcheson be the Solicitors of the Board. Carried. 20

Moved by Mr. T. M. Edwards and seconded by Mr. W. T. McArthur that Messrs. Price Waterhouse & Co. be the Auditors of the Board. Carried.

It was resolved that for the purpose of licensing producers they be classified into groups according to the bases allotted to them.

RESOLVED that bases be awarded on 1935 shipments to the various producers in the area on the following basis, or such other basis as the Board may from time to time decide: that now shippers must ship continuously for twelve months before a base may be allotted; that any producer failing to ship continuously for twelve months will automatically lose his base for the following year and be treated as a new producer: and that the bases of all new producers will be struck on January first and July first: and the method of arriving at a base shall be by compiling the shipments made by each producer during such of the base months, (January, February, March, October, November and December), of the preceding calendar year divided by 182. 30

RESOLVED that Order No. 1, requiring registration, be and is hereby determined and made effective on the date set out therein. 40

RESOLVED that the base of production of each producer in the annexed list be and the same is hereby fixed and determined at the amount set opposite the respective names of each producer in such list.

RESOLVED that Order No. 2, determining bases for producers, be and is hereby determined and made effective on the date set out therein.

RESOLVED that Order No. 3, requiring that all persons engaged in production of the regulated product, shall obtain a licence from this Board, and setting out the fees therefor, be and is hereby determined and made effective on the date set out therein.

RESOLVED that the Chairman's action in contacting the producer vendors' association, and his request that a representative delegation meet the Board to discuss the new Milk Marketing legislation, be approved.

RESOLVED that advertisements be inserted in the Chilliwack "Progress," New Westminster "Columbian," and the Vancouver "News Herald," "Province" and "Sun," advising of the requirement to register forthwith with this Board under the new Milk Marketing Scheme, in the following form: "Notice to Producers, Distributors, Manufacturers, Haulers and Others Handling Milk: You are required before November 12th, 1936, to register with and obtain a licence from the undersigned Board, under the new Milk Marketing Scheme approved by Order in Council (Government of British Columbia) dated October 27th, 1936. Lower Mainland Dairy Products Board, 804-850 West Hastings Street, Vancouver, B.C."

At the invitation of the Chairman of the Board, representatives of the following distributors met the Board at its afternoon session: Avalon, Associated, Clover Leaf, Crystal, Empress, Gibson's, Guernsey, Hilton, Jersey, Melrose, National, Twigg Island and Turner's Dairies, when the marketing of milk in Vancouver was discussed.

The meeting adjourned.

"W. J. Park,"  
Chairman.

Confirmed this 28th day of October, 1936.

"Ernest MacGinnis,"  
Secretary.

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 9

Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37.

"F. T. H.," Registrar.

RECORD

In the  
Supreme Court  
of British  
Columbia

Plaintiffs'  
Exhibit  
No. 9

Minutes of  
Meeting of  
Defendant  
Board

Oct. 27, 1936  
(Cont'd)

RECORD

EXHIBIT 10

*In the  
Supreme Court  
of British  
Columbia*

MILK MARKETING SCHEME OF THE LOWER  
MAINLAND OF BRITISH COLUMBIA

Plaintiffs'  
Exhibit  
No. 10  
Order No. 1  
of Defendant  
Board  
Oct. 27, 1936

ORDER No. 1

PURSUANT to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts and of the Milk Marketing Scheme of the Lower Mainland of British Columbia, the LOWER MAINLAND DAIRY PRODUCTS BOARD hereby orders and determines:

1. That all persons engaged in the production, processing, manufacturing or marketing of the regulated product within the area to which the Scheme relates, shall forthwith register with this Board in the manner hereinafter set forth. 10

2. That all such persons shall deliver to this Board at its office, Room 804-850 West Hastings Street, in the city of Vancouver, Province of British Columbia, an application for registration in writing in the form approved by this Board and signed by the applicant, and stating the full name, address and occupation of the applicant, and in the case of a producer the number of milch cows kept by such applicant for milking purposes. 20

3. That after the 12th day of November, 1936, no person shall engage in the production, processing, manufacturing or marketing of the regulated product within the area unless such person is registered with this Board.

Wherever used in this Order, unless the context otherwise requires, the words defined in Section 2 of the Milk Marketing Scheme of the Lower Mainland of British Columbia, effective from the 27th day of October, 1936, approved under the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts, shall have the meaning set forth in the said Section. 30

This Order is in force and effect from the 27th day of October, 1936.

DATED at Vancouver, B.C., this 27th day of October, 1936.

RECORD

LOWER MAINLAND DAIRY PRODUCTS BOARD  
"W. J. Park"  
"W. T. McArthur"  
"T. M. Edwards"

*In the  
Supreme Court  
of British  
Columbia*

(Seal: Lower Mainland Dairy Products Board)

Plaintiffs'  
Exhibit  
No. 10  
Order No. 1  
of Defendant  
Board  
Oct. 27, 1936  
(Cont'd)

10

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 10  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37.  
"F. T. H.," Registrar.

EXHIBIT 11

MILK MARKETING SCHEME OF THE LOWER  
MAINLAND OF BRITISH COLUMBIA

20

ORDER No. 2

Plaintiffs'  
Exhibit  
No. 11  
Order No. 2  
of Defendant  
Board  
Oct. 27, 1936

PURSUANT to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts and of the Milk Marketing Scheme of the Lower Mainland of British Columbia, the LOWER MAINLAND DAIRY PRODUCTS BOARD hereby orders and determines:

1. That the Board may from time to time determine the base of production of any producer.
2. That the Board may at any time at its sole discretion cancel or vary the base of production of any producer.
3. That if any producer whose base of production has been determined by the Board fails to market during any period of sixty days an average daily shipment of not less than eighty per cent. of the amount of his base of production as so determined, then and thereafter until otherwise determined by the Board the base of production of such producer shall be equal to the amount of the average marketed daily by such producer during such period.
4. That any registered producer whose base has been

30

RECORD  
 ———  
*In the  
 Supreme Court  
 of British  
 Columbia*  
 ———  
 Plaintiffs'  
 Exhibit  
 No. 11  
 Order No. 2  
 of Defendant  
 Board  
 Oct. 27, 1936  
 (Cont'd)

determined by the Board may, with the approval of the Board, transfer the whole of such base of production, or may transfer any portion of such base of production being not less than 100 pounds to any other registered producer in the manner hereinafter set forth, but not otherwise.

5. That any transfer of a base of production or any portion thereof shall be in writing in the form approved by the Board and signed by the transferor and the transferee.

6. That such transfer shall be deposited with the Board within ten days after its execution, and shall become effective only upon being approved by the Board. 10

Wherever used in this Order, unless the context otherwise requires, the words defined in Section 2 of the Milk Marketing Scheme of the Lower Mainland of British Columbia, effective from the 27th day of October, 1936, approved under the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts, shall have the meaning set forth in the said Section.

This Order is in force and effect from the 27th day of October, 1936. 20

DATED at Vancouver, B. C., this 27th day of October, 1936.

LOWER MAINLAND DAIRY PRODUCTS BOARD

“W. J. Park”  
 “W. T. McArthur”  
 “T. M. Edwards”

(Seal: Lower Mainland Dairy Products Board)

S. C. 1436/36  
 SUPREME COURT OF B.C.  
 VANCOUVER REGISTRY 30  
 Exhibit No. 11  
 Shannon et al vs.  
 Lower Mainland Dairy  
 Products Board  
 Put in by Plaintiffs  
 Date Feb. 17/37.  
 “F. T. H.,” Registrar.

EXHIBIT 12  
MILK MARKETING SCHEME OF THE LOWER  
MAINLAND OF BRITISH COLUMBIA  
ORDER No. 3

RECORD  
In the  
Supreme Court  
of British  
Columbia  
Plaintiffs'  
Exhibit  
No. 12  
Order No. 3  
of Defendant  
Board  
Oct. 27, 1936

PURSUANT to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts and of the Milk Marketing Scheme of the Lower Mainland of British Columbia the LOWER MAINLAND DAIRY PRODUCTS BOARD hereby orders and determines:

- 10 1. That all producers shall obtain a licence from the Board, and shall pay in respect thereof, the licence fees as hereinafter fixed.
- 2. That all licences shall expire on the 27th day of October next following the date thereof, and a licencing year shall be from the 27th day of October in any year to the 27th day of October next following.
- 3. That for the purposes of fixing licence fees, all producers are hereby classed into the following Groups:

	Licence Fee
20 Group 1—being all producers whose base of production shall have been determined by the Board at 100 pounds or less.....	\$ 5.00
Group 2—being all producers whose base of production shall have been determined by the Board at over 100 pounds and less than 201 pounds.....	\$ 10.00
Group 3—being all producers whose base of production shall have been determined by the Board at over 200 pounds and less than 301 pounds.....	\$ 15.00
30 Group 4—being all producers whose base of production shall have been determined by the Board at over 300 pounds and less than 401 pounds.....	\$ 20.00
Group 5—being all producers whose base of production shall have been determined by the Board at over 400 pounds and less than 501 pounds.....	\$ 25.00
Group 6—being all producers whose base of production shall have been determined by the Board at over 500 pounds and less than 601 pounds.....	\$ 30.00
40 Group 7—being all producers whose base of production shall have been determined by the Board at over 600 pounds and less than 701 pounds.....	\$ 35.00
Group 8—being all producers whose base of production shall have been determined by the Board at over 700 pounds and less than 801 pounds.....	\$ 40.00
Group 9—being all producers whose base of production shall have been determined by the Board at over 800 pounds and less than 901 pounds.....	\$ 45.00

RECORD  
 ———  
*In the*  
*Supreme Court*  
*of British*  
*Columbia*  
 ———  
 Plaintiffs'  
 Exhibit  
 No. 12  
 Order No. 3  
 of Defendant  
 Board  
 Oct. 27, 1936  
 (Cont'd)

Group 10—being all producers whose base of production shall have been determined by the Board at over 900 pounds and less than 1001 pounds.....	\$ 50.00	
Group 11—being all producers whose base of production shall have been determined by the Board at over 1000 pounds and less than 1101 pounds.....	\$ 55.00	
Group 12—being all producers whose base of production shall have been determined by the Board at over 1100 pounds and less than 1201 pounds.....	\$ 60.00	
Group 13—being all producers whose base of production shall have been determined by the Board at over 1200 pounds and less than 1301 pounds.....	\$ 65.00	10
Group 14—being all producers whose base of production shall have been determined by the Board at over 1300 pounds and less than 1401 pounds.....	\$ 70.00	
Group 15—being all producers whose base of production shall have been determined by the Board at over 1400 pounds and less than 1501 pounds.....	\$ 75.00	
Group 16—being all producers whose base of production shall have been determined by the Board at over 1500 pounds and less than 1601 pounds.....	\$ 80.00	20
Group 17—being all producers whose base of production shall have been determined by the Board at over 1600 pounds and less than 1701 pounds.....	\$ 85.00	
Group 18—being all producers whose base of production shall have been determined by the Board at over 1700 pounds and less than 1801 pounds.....	\$ 90.00	
Group 19—being all producers whose base of production shall have been determined by the Board at over 1900 pounds and less than 2001 pounds.....	\$ 95.00	30
Group 20—being all producers whose base of production shall have been determined by the Board at over 2000 pounds and less than 2101 pounds.....	\$100.00	
Group 21—being all producers whose base of production shall have been determined by the Board at over 2100 pounds and less than 2201 pounds.....	\$105.00	
Group 22—being all producers whose base of production shall have been determined by the Board at over 2200 pounds and less than 2301 pounds.....	\$110.00	
Group 23—being all producers whose base of production shall have been determined by the Board at over 2300 pounds and less than 2401 pounds.....	\$115.00	40
Group 24—being all producers whose base of production shall have been determined by the Board at over 2400 pounds and less than 2501 pounds.....	\$120.00	



	Group 25—being all producers whose base of production shall have been determined by the Board at over 2500 pounds and less than 2601 pounds.....	\$125.00
	Group 26—being all producers whose base of production shall have been determined by the Board at over 2600 pounds and less than 2701 pounds.....	\$130.00
	Group 27—being all producers whose base of production shall have been determined by the Board at over 2700 pounds and less than 2801 pounds.....	\$135.00
10	Group 28—being all producers whose base of production shall have been determined by the Board at over 2800 pounds and less than 2901 pounds.....	\$140.00
	Group 29—being all producers whose base of production shall have been determined by the Board at over 2900 pounds and less than 3001 pounds.....	\$145.00
	Group 30—being all producers whose base of production shall have been determined by the Board at over 3000 pounds and less than 3101 pounds.....	\$150.00
20	Group 31—being all producers whose base of production shall have been determined by the Board at over 3100 pounds and less than 3201 pounds.....	\$155.00
	Group 32—being all producers whose base of production shall have been determined by the Board at over 3200 pounds and less than 3301 pounds.....	\$160.00
	Group 33—being all producers whose base of production shall have been determined by the Board at over 3300 pounds and less than 3401 pounds.....	\$165.00
30	Group 34—being all producers whose base of production shall have been determined by the Board at over 3400 pounds and less than 3501 pounds.....	\$170.00
	Group 35—being all producers who have not been awarded a base.....	25 cents

RECORD  


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*In the*  
*Supreme Court*  
*of British*  
*Columbia*  


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Plaintiffs'  
Exhibit  
No. 12  
Order No. 3  
of Defendant  
Board  
Oct. 27, 1936  
(Cont'd)

4. That the licence fee set opposite the respective Groups in the preceding paragraph hereof is hereby fixed as the annual licence fee for all producers in such Groups respectively.

5. That in respect to any licence issued to any person who, subsequent to the commencement of any licencing year, shall first become liable to be licenced under this Order, the licence fee payable shall be that portion of the annual licence fees hereinbefore set forth which shall bear the same ratio to such annual licence fees as the number of days remaining in the licencing year subsequent to the day upon which such person become so liable shall bear to 365.

6. That the licence fees shall be paid in full on application or 50% with the application for such licence, and 50% on the 27th day of April next following. Provided that where any

RECORD  
—  
*In the*  
*Supreme Court*  
*of British*  
*Columbia*  
—  
Plaintiffs'  
Exhibit  
No. 12  
Order No. 3  
of Defendant  
Board  
Oct. 27, 1936  
(Cont'd)

licence is applied for subsequent to the 27th day of April in any licencing year, the total licence fees shall be payable with the application for such licence.

7. That if, in any current licencing year, any producer who has paid or is liable to pay the licence fee hereby fixed for all producers in Group 35 is given a base determined by the Board, then such producer shall forthwith pay to the Board that portion of the difference between the licence fee fixed for all producers in Group 35 and the licence fee fixed for all producers in the group in which he then is, having regard to such base, which shall bear the same ratio to such difference as the number of days then remaining in such licencing year shall bear to 365. 10

8. That all licence fees shall be payable to the Board at the office of the Board, Room 804, 850 West Hastings Street, in the City of Vancouver, Province of British Columbia.

9. That from and after the 12th day of November, 1936, no producer shall engage in the production of or market the regulated product unless he is the holder of an uncanceled unexpired licence from the Board.

10. That any licence may be cancelled by the Board for violation of any provisions of the Scheme or of this or any Order of the Board or of the Regulations. 20

Wherever used in this Order, unless the context otherwise requires, the words defined in Section 2 of the Milk Marketing Scheme of the Lower Mainland of British Columbia effective from the 27th day of October, 1936, approved under the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts, shall have the meaning set forth in the said Section.

This Order is in force and effect from the 27th day of October, 1936. 30

DATED at Vancouver, B.C., this 27th day of October, 1936.

LOWER MAINLAND DAIRY PRODUCTS BOARD

“W. J. Park”

“W. T. McArthur”

“T. M. Edwards”

(Seal: Lower Mainland Dairy Products Board)

S. C. 1436/36  
SUPREME COURT OF B.C. 40  
VANCOUVER REGISTRY

Exhibit No. 15

Shannon et al vs.  
Lower Mainland Dairy  
Products Board

Put in by Plaintiffs

Date Feb. 17/37.

“F. T. H.,” Registrar.

## EXHIBIT 1

## LOWER MAINLAND DAIRY PRODUCTS BOARD

804—850 W. Hastings St.,  
Vancouver, B.C.

RECORD

*In the  
Supreme Court  
of British  
Columbia*

October 28, 1936.

Plaintiffs'  
Exhibit  
No. 1  
Notice to  
Producers  
Given by  
Defendant  
Board  
Oct. 28, 1936

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 1

10 Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 16/37.

## IMPORTANT NOTICE TO PRODUCERS

Enclosed find Producers Application for Registration and  
Licence, which also states your yearly licence fee.

20 This form is to be filled in and returned to this office with  
remittance as soon as possible, and not later than November 12th,  
1936.

If it is not convenient at this time to remit the full annual  
licence fee, the Board will accept half of it and arrangements  
can be made for payment of the balance later on.

Your early and careful attention to this matter will be  
appreciated.

Yours truly,

LOWER MAINLAND DAIRY PRODUCTS BOARD

"Ernest MacGinnis,"

Secretary.

30 EMacG:EMG  
Form 36N.2

RECORD

EXHIBIT 2

In the  
Supreme Court  
of British  
Columbia

Name: Shannon Brothers  
Address: Cloverdale, B.C.

Group: No. 9  
Your Annual Licence Fee:  
\$45.00

PRODUCERS

APPLICATION FOR REGISTRATION AND LICENCE

(Under the new Milk Marketing Scheme of the Lower Mainland of British Columbia which gives the following powers: 'Sec. 10'—  
"The Marketing Board shall have power within the area to which the scheme relates"—'Subsection (j)'—"To require any or all persons engaged in the production, processing, manufacturing, or marketing of the regulated product to register with and obtain licences from the Board.")

Lower Mainland Dairy Products Board,  
804 Credit Foncier Bldg.,  
Vancouver, B.C.

I hereby apply for registration and licence as a producer of the regulated product, (milk and cream), under the new Milk Marketing Scheme of the Lower Mainland of British Columbia, authorized by Order in Council of the B.C. Government dated October 27th, 1936.

Name in full.....(Please print)

Address .....

Occupation .....

How many cows..... Grade of barn.....

"Cow" means a cow kept for milking purposes but does not include a heifer which has never calved.

If a partnership this application must bear the partnership name together with the signatures of all partners. If a corporation it must bear the corporation name, seal, and signature of a duly authorized signing officer with his official position.

.....

Witness .....

Date.....

FOR OFFICE USE ONLY

Registration No..... Cash Encl. \$.....

Licence No..... Date Recd.....

Form 36N.1

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

40

Exhibit No. 2  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board

Put in by Plaintiffs  
Date Feb. 16/37.  
"F. T. H.," Registrar.

EXHIBIT 13

RECORD

Minutes of a meeting of the Lower Mainland Dairy Products Board, held at its office, 804 Credit Foncier Building, 850 West Hastings Street, Vancouver, B.C., at 11.00 a.m., Friday, October 30th, 1936.

*In the  
Supreme Court  
of British  
Columbia*

Present:

Messrs. W. J. Park (in the Chair)

W. T. McArthur

T. M. Edwards

10 Ernest MacGinnis (Secretary)

The minutes of the meeting held on the 28th day of October, 1936, were read and upon motion adopted.

Moved by Mr. T. M. Edwards and seconded by Mr. W. T. McArthur and carried, it was RESOLVED that the seal in the form impressed upon these minutes shall be and the same is hereby adopted as the corporate seal of this Board;

20 AND RESOLVED that any member of this Board may affix such seal to all Orders, certified copies, deeds and other documents to which it is proper and necessary that the seal of this Board should be affixed.

Moved by Mr. T. M. Edwards and seconded by Mr. W. T. McArthur that Ernest MacGinnis be and is hereby appointed Secretary of this Board, and further that this appointment be effective as at October 27th, 1936.

The Secretary was instructed to write to Mr. J. Crowley, President of the Vancouver Milk Distributors' Association, referring to the immediate future plans of the Board.

A letter from Dr. E. H. Saunders, returning application for registration incompleated, was ordered filed.

30 A delegation of producer vendors, headed by Miss K. Morrison met the Board at its afternoon session.

The meeting then adjourned.

“W. J. Park,”

Chairman.

LOWER MAINLAND DAIRY PRODUCTS BOARD  
(SEAL)

Confirmed this 2nd day of Nov., 1936.

“Ernest MacGinnis,”

Secretary.

40 S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 13

Shannon et al vs.  
Lower Mainland Dairy  
Products Board

Put in by Plaintiffs  
Date Feb. 17/37.  
“F. T. H.,” Registrar.

Plaintiffs'  
Exhibit  
No. 13  
Minutes of  
Meeting of  
Defendant  
Board  
Oct. 30, 1936

RECORD

## EXHIBIT 7

*In the  
Supreme Court  
of British  
Columbia*

## LOWER MAINLAND DAIRY PRODUCTS BOARD

804 W. Hastings Street,  
Vancouver, B.C.

Plaintiffs'  
Exhibit  
No. 7  
Special Notice  
to Producers  
Given by  
Defendant  
Board  
Nov. 2, 1936

## SPECIAL NOTICE

To All Those Engaged in Marketing The Regulated Product

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 7

10

Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 16/37.  
"F. T. H.," Registrar.

Enclosed find application for registration and licence as required under the new Milk Marketing Scheme.

"Vehicle" means "any motor-vehicle, wagon, railway car, ship, boat, or other thing in or on which the regulated product can be transported." 20

"Marketing" includes buying and selling, shipping for sale or storage, and offering for sale, and the transportation of the regulated product in any manner by any person."

Will you please fill in the information requested and return the form as soon as possible, as you are required to possess a licence issued by this Board on and after November 13th, 1936.

LOWER MAINLAND DAIRY PRODUCTS BOARD

"Ernest MacGinnis,"

Secretary.

30

November 2, 1936.  
Form 36N.7

EXHIBIT 8

RECORD

Name: M. B. McDermid Group:
Address: Eburne, B.C. Your Annual Licence Fee \$

In the Supreme Court of British Columbia

APPLICATION FOR REGISTRATION AND LICENCE (Marketing Division)

Plaintiffs' Exhibit No. 8 Form of Application for Registration as a Hauler of Milk

(Under the new Milk Marketing Scheme of the Lower Mainland of British Columbia which gives the following powers: 'Sec. 10'—'The Marketing Board shall have power within the area to which the scheme relates'—'Subsection (j)'—'To require any or all persons engaged in the production, processing, manufacturing, or marketing of the regulated product to register with and obtain licences from the Board.')

Lower Mainland Dairy Products Board, 804 Credit Foncier Bldg., Vancouver, B.C.

I hereby apply for registration and licence as required under the new Milk Marketing Scheme of the Lower Mainland of British Columbia, authorized by Order in Council of the B. C. Government dated October 27th, 1936.

20 Trade Name.....(Please Print)
Name of Proprietor.....(Please Print)
Address .....
Occupation .....
Type of Business..... How many vehicles.....

If a partnership this application must bear the partnership name together with the signatures of all partners. If a corporation it must bear the corporation name, seal, and signature of a duly authorized signing officer with his official position.

30 Witness
Date.....

For Office Use Only

Registration No..... Cash Encl. \$.....
Licence No..... Date Recd.....
Form 36N.6.

S. C. 1436/36
SUPREME COURT OF B.C.
VANCOUVER REGISTRY

40 Exhibit No. 8
Shannon et al vs.
Lower Mainland Dairy
Products Board

Put in by Plaintiffs
Date Feb. 16/37.
'F. T. H.,' Registrar.

## RECORD

## EXHIBIT 14

*In the  
Supreme Court  
of British  
Columbia*

Plaintiffs'  
Exhibit  
No. 14  
Minutes of  
Meeting of  
Defendant  
Board  
Nov. 9, 1936

Minutes of a meeting of the Lower Mainland Dairy Products Board, held at the office of the Board, 804 Credit Foncier Building, 850 West Hastings Street, Vancouver, B.C., at 11 a.m., Monday, November 9, 1936.

Present:

Messrs. W. J. Park (in the Chair)

W. T. McArthur

T. M. Edwards

Ernest MacGinnis (Secretary)

10

The minutes of the meeting held on the 5th day of November, 1936, were read and upon motion adopted.

Resolved that the Board secure time on "CBWK" and "CJOR" tonight and advise producers briefly of the requirements of the new Milk Marketing legislation.

Resolved that Order No. 4, dealing with licence fees for other than producers, be and is hereby determined and made effective on the date set out therein.

The following correspondence was ordered dealt with as marginally noted: C. Zurowski; Dan Milo; Mrs. Mabel Thompson; D. Gallen; Melville C. Padden; Thos. Simpson; Isaac T. Spring; Chas. Beharrell; W. P. Lewis; J. A. Coatham; W. O. Ferris; Ellen Schenkenveld; Viola Loadman re O. S. Richards; Mrs. Oliver R. Ray and Frank Caws. 20

The meeting adjourned.

"W. J. Park,"  
Chairman.

Confirmed this 12 day of November, 1936.

"Ernest MacGinnis."

S. C. 1436/36 30  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 14  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37.  
"F. T. H.," Registrar.



## EXHIBIT 15

MILK MARKETING SCHEME OF THE LOWER  
 MAINLAND OF BRITISH COLUMBIA  
 ORDER No. 4

RECORD

*In the  
 Supreme Court  
 of British  
 Columbia*

Plaintiffs'  
 Exhibit  
 No. 15  
 Order No. 4  
 of Defendant  
 Board  
 Nov. 9, 1936

PURSUANT to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts and of the Milk Marketing Scheme of the Lower Mainland of British Columbia, the LOWER MAINLAND DAIRY PRODUCTS BOARD hereby orders and determines:

- 10 1. That in this order, unless the context otherwise requires:  
 "Hauler" shall mean any person who, within the area to which the scheme relates, transports milk,  
 "Distributor" shall mean any person who, within the area to which the scheme relates, sells or offers for sale milk in fluid form.  
 "Manufacturer" shall mean any person who, within the area to which the scheme relates, produces a product processed or manufactured wholly or chiefly from milk.
- 20 2. That all haulers shall register with and obtain a licence from the Board and shall pay the licence fees hereinafter fixed. Provided that all producers only transporting milk produced on their own premises, and all distributors transporting milk in the course of the distribution thereof, are exempt from the provisions of this clause.
3. That all distributors shall register with and obtain a licence from the Board, and shall pay the licence fees hereinafter fixed. Provided that all producers other than producer vendors, and all retail stores are exempt from the provisions of this clause.
- 30 4. That all manufacturers shall register with and obtain a licence from the Board, and shall pay the licence fees hereinafter fixed.
5. That all haulers, distributors and manufacturers shall deliver to this Board at its office, Room 804—850 West Hastings Street, in the City of Vancouver, British Columbia, an application for registration in writing in the form approved by this Board and signed by the applicant.
- 40 6. That all licences shall expire on the 27th day of October next following the date thereof, and a licencing year shall be from the 27th day of October in any year to the 27th day of October next following.
7. That for such licences the following annual licence fees are hereby fixed.

## RECORD

*In the  
Supreme Court  
of British  
Columbia*

Plaintiffs'  
Exhibit

No. 15

Order No. 4  
of Defendant  
Board

Nov. 9, 1936  
(Cont'd)

For haulers—\$2.00.

For distributors—\$20.00, plus a sum equal to \$10.00 multiplied by the number of vehicles over one, used by such distributor in the selling, offering for sale, transporting or distributing of the regulated product.

For manufacturers—\$5.00.

8. That in respect to any licence issued to any person who, subsequent to the commencement of any licencing year, shall first become liable to be registered or licenced under this Order, the licence fee payable shall be that portion of the annual licence fee hereinbefore set forth which shall bear the same ratio to such annual licence fee as the number of days remaining in the licencing year subsequent to the day upon which such person became so liable to be licenced shall bear to 365. 10

9. That if, during any licencing year, any distributor required to obtain a licence under this Order shall increase the number of vehicles used by such distributor in the selling, offering for sale, transporting or distributing of the regulated product, he shall pay to the Board as a further licence fee a sum equal to \$10.00 multiplied by the number by which the number of vehicles so used has increased and so from time to time. 20

10. That the licence fee shall be paid 50% with the application for such licence and 50% on the 27th day of April next following. Provided that where any licence is applied for subsequent to the 27th day of April in any licencing year, the total licence fees shall be payable with the application for such licence.

11. That all licence fees shall be payable to the Board at the office of the Board, Room 804, 850 West Hastings Street, in the City of Vancouver, Province of British Columbia.

12. That from and after the 12th day of November, 1936, no hauler, distributor or manufacturer required to register and to obtain a licence under this Order shall engage in the hauling, distributing, manufacturing, or marketing of the regulated product unless he is registered with the Board and the holder of an uncanceled, unexpired licence from the Board. 30

13. That any registration or licence may be cancelled by the Board for violation of any provision of the scheme or of this or any Order of the Board or of the Regulations.

Wherever used in this Order, unless the context otherwise requires, the words defined in Section 2 of the Milk Marketing Scheme of the Lower Mainland of British Columbia effective from the the 27th day of October, 1936, approved under the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts, shall have the meaning set forth in the said Section. 40

This Order is in force and effect from the 27th day of October, 1936.

DATED at Vancouver, B.C., this 9th day of November, 1936.

LOWER MAINLAND DAIRY PRODUCTS BOARD  
"W. J. Park"  
"W. T. McArthur"  
"T. M. Edwards"

(Seal: Lower Mainland Dairy Products Board)

10

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 15  
Shannon et al vs.  
Lower Mainland Dairy Products Board  
Put in by Plaintiffs  
Date Feb. 17/37.  
"F. T. H.," Registrar.

RECORD  
In the  
Supreme Court  
of British  
Columbia  
Plaintiffs'  
Exhibit  
No. 15  
Order No. 4  
of Defendant  
Board  
Nov. 9, 1936  
(Cont'd)

20

EXHIBIT 16

Minutes of a meeting of the Lower Mainland Dairy Products Board, held at its office, 804 Credit Foncier Building, 850 West Hastings Street, Vancouver, B.C., at 11:00 a.m., Monday, November the 16th, 1936.

Present:

Messrs. W. J. Park (in the chair)  
W. T. McArthur  
T. M. Edwards  
Ernest MacGinnis (Secretary)

30

The minutes of the meeting held on the 12th day of November, 1936, were upon motion adopted as read.

The Secretary reported on registrations and settlements received, showing a large majority of producers, both Independent and Co-operative and producer vendors, in favour of regulated marketing.

Resolved that Order No. 5 be and is hereby ordered and determined and effective on the date set out therein.

40

The following correspondence was ordered dealt with as marginally noted: Farris, Farris, Stultz, Bull & Farris re Jersey Farms, Ltd., and Turner's Dairy, Ltd.; Independent Milk Pro-

Plaintiffs'  
Exhibit  
No. 16  
Minutes of  
Meeting of  
Defendant  
Board  
Nov. 16, 1936

RECORD  
 ———  
*In the*  
*Supreme Court*  
*of British*  
*Columbia*  
 ———  
 Plaintiffs'  
 Exhibit  
 No. 16  
 Minutes of  
 Meeting of  
 Defendant  
 Board  
 Nov. 16, 1936  
 (Cont'd)

ducers' Co-operative Assn.; Milk Shippers' Agency, Ltd., re plans of Board; and Mrs. Wm. Milburn.

RESOLVED that subject to approval of agencies interested and to purchaser registering and paying for licence with this Board, the following applications for transfer of base be approved: Adamson 259 lbs. to Adamson; Friesen 106 lbs. to Friesen; Walter to Beattie; Clarke to Goettler; Adams to R. D. Carmichael; McCullough 350 lbs. to McCullough; and Dunwell 100 lbs. to Purver.

\* \* \* \* \*

Confirmed this 18 day of November, 1936. 10  
 "Ernest MacGinnis."

RESOLVED that the Secretary be instructed to send to the Fraser Valley Milk Producers' Association all orders from producers for payment of licence fees, accompanied by a statement of such orders, and a request for payment in that amount.

RESOLVED that licences be issued forthwith to all producers whose fee therefor has been paid in cash to the Board. The meeting adjourned.

"W. J. Park,"  
 Chairman. 20

S. C. 1436/36  
 SUPREME COURT OF B.C.  
 VANCOUVER REGISTRY  
 Exhibit No. 16  
 Shannon et al vs.  
 Lower Mainland Dairy  
 Products Board  
 Put in by Plaintiffs  
 Date Feb. 17/37.  
 "F. T. H.," Registrar. 30

## EXHIBIT 17

MILK MARKETING SCHEME OF THE LOWER  
 MAINLAND OF BRITISH COLUMBIA  
 ORDER No. 5

RECORD

*In the  
 Supreme Court  
 of British  
 Columbia*

Plaintiffs'  
 Exhibit  
 No. 17  
 Order No. 5  
 of Defendant  
 Board  
 Nov. 16, 1936

PURSUANT to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts and of the Milk Marketing Scheme of the Lower Mainland of British Columbia, the LOWER MAINLAND DAIRY PRODUCTS BOARD hereby orders and determines:

10 That no person shall, within the area to which the Scheme relates, market the regulated product unless such person is the holder of an uncancelled unexpired licence from this Board, and then only as permitted by such licence. Provided that retail stores shall be exempt from this Order.

20 Wherever used in this Order, unless the context otherwise requires, the words defined in Section 2 of the Milk Marketing Scheme of the Lower Mainland of British Columbia, effective from the 27th day of October, 1936, approved under the provisions of the Natural Products Marketing (British Columbia) Act and Amending Act, shall have the meaning set forth in the said Section.

This Order is in force and effect from the 16th day of November, 1936.

DATED at Vancouver, B.C., this 16th day of November, 1936.

LOWER MAINLAND DAIRY PRODUCTS BOARD

“W. J. Park”

“W. T. McArthur”

“T. M. Edwards”

30 (Seal: Lower Mainland Dairy Products Board)

S. C. 1436/36  
 SUPREME COURT OF B.C.  
 VANCOUVER REGISTRY

Exhibit No. 17

Shannon et al vs.  
 Lower Mainland Dairy  
 Products Board

Put in by Plaintiffs

Date Feb. 17/37.

40

“F. T. H.,” Registrar.

## RECORD

## EXHIBIT 23

*In the  
Supreme Court  
of British  
Columbia*

## LOWER MAINLAND DAIRY PRODUCTS BOARD

Cash Summary  
For Month of November, 1936

Plaintiffs'	Bank Deposits .....	\$8,668.63	
Exhibit	Exchange .....	3.75	
No. 23	Suspense Account .....	7.50	Dec. 22/36
Statement of	(E. J. Westlin—Licence issued but cash not received until December, 1936)		
Licence Fees	Licence Fees—Producers .....	\$8,577.00	10
Received by	Licence Fees—Manufacturers .....	70.50	
Defendant	Exchange .....	.60	
Board	Suspense Account .....	24.25	
Nov. 1936	Cash received but licences not issued:		
	W. Calvert .....	\$ 5.00	Dec. 22/36 No. 26
	Booth Estate .....	10.00	
	J. Brown .....	1.00	Dec. 15/36 No. 1968
	T. Hamlyn .....	1.25	Returned
	J. H. Lennox.....	2.00	
	A. Wadell .....	5.00	Dec. 11/36 No. 1964 20
	Return Cheque Account—		
	W. E. Simpson .....	7.53	
		<u>\$8,679.88</u>	<u>\$8,679.88</u>

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 23  
Shannon et al vs. 30  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37  
"F.T.H., Registrar"  
Entered S/2

## CASH LIST

(1)

November 3, 1936

		RECORD
		—
		<i>In the</i>
		<i>Supreme Court</i>
		<i>of British</i>
		<i>Columbia</i>
		—
	Listed, Torkal, Matsqui .....	\$ 5.00
	Clausen, A. T., Abbotsford .....	5.00
	Gaffney, J., Cloverdale .....	2.50
	Wadel, A., Agassiz .....	5.00
	Bergsvik, Andrew, Matsqui .....	10.00
	Pearson, J. W., Hope .....	5.00
10	Fisher, Frank B., R.R.1, New Westminster .....	.25
	Newson, Frans, Newton Station .....	.25
	Kallstrom, J. C., R.R.1, Abbotsford .....	.25

November 4, 1936

	Clegg, Warren L., R.R.1, Chilliwack (Mail: Hollyburn) ...	.25	Plaintiffs' Exhibit No. 23 Statement of Licence Fees Received by Defendant Board Nov. 1936 (Cont'd)
	Renkine, Neil K., R.R.1, White Rock .....	.25	
	Earle, John G., Bradner .....	.25	
	Regier, A., Abbotsford .....	5.00	
	Gustafson, C. W., Mount Lehman .....	.25	
	Gilchrist, R. D., Matsqui .....	.25	
20	Beattie, J. W., Abbotsford .....	2.50	
	Hess, W. H., Cheam View .....	10.00	
	Ast, Jacob, Chilliwack .....	.25	
	Presloski, Sophie, Abbotsford .....	5.00	
	Merk, Ludwig, Pitt Meadows .....	.25	

November 5, 1936

	Scott, John C., R.R.2, Sardis .....	.25
	Taylor, L. G., Langley Prairie .....	.25
	Nestoruk, Harry, R.R.1, Langley Prairie .....	3.00
	Pettis, Geo., Agassiz .....	.25
30	Appleby, L. S., Mission City .....	.25
	Wilson, James W., R.R.2, Sardis .....	.25
	Davies, R. John, R.R.2, Chilliwack .....	.25
	Woodman, A. A., R.R.3, Cloverdale .....	.25
	Gust, Ernest R., Vedder Crossing .....	.25
	Hillier, Stephen, R.R.2, Langley Prairie .....	.25
	Elliott, Edwin, Aldergrove .....	5.00
	Ladner Transfer, Trsfr. (C.H. Davis), Ladner .....	2.00
	Lees, Isabella (Nov. 4), Chilliwack .....	.25
	Thompson, James (Oct. 31), R.R.2, Cloverdale .....	5.00
40	Johnston, Thomas, Trsfr., Sullivan Station (Nov. 3) .....	1.00
	Parsons, Frank F. (Nov. 4), Mandeville Dairy, 3680 Marine Dr., City .....	.25
	Van Rechteron, Count Adolph F., Chilliwack .....	20.00
	Hutcheon, Leslie, Vedder Crossing .....	5.00
	Cooper, Mrs. Sarah, Vedder Crossing .....	5.00
	Baxter, William, R.R.1, Steveston .....	.25





	Bob, John, Agassiz .....	.25	<b>RECORD</b>
	Frieson, Bernhard B., R.R.1, Sardis .....	5.00	—
	Lakberg, Mrs. E. M., R.R.3, Sardis .....	.25	<i>In the</i>
	August, Frank, R.R.3, Sardis .....	.25	<i>Supreme Court</i>
	Mallory, Geo. W., Sardis .....	.25	<i>of British</i>
	Andrews, Jack Jas., R.R.2, Chilliwack .....	.25	<i>Columbia</i>
	Stott, Les K., R.R.2, Chilliwack .....	.25	—
	Bowden, Henry, R.R.1, Sardis .....	1.00	Plaintiffs'
	Welch, Chas. Roberts, Port Kells .....	.25	Exhibit
10	Wards, William, Kilgard .....	.25	No. 23
	Dirks, I. B., R.R.2, Abbotsford .....	.25	Statement of
	Johnston, John H., R.R.2, Chilliwack .....	5.00	Licence Fees
	Dixon, Mrs. Isabella, Laidlaw .....	.25	Received by
	Anderson, Erling, Matsqui .....	.25	Defendant
	Mathisen, Carl, R.R.1, Port Kells .....	.25	Board
	Thomson, Cyril Roy, R.R.1, Mount Lehman .....	.25	Nov. 1936
	O'Connor, A., 897—35th Ave., E., City; Farm: Aldergrove	5.00	(Cont'd)
	Telosky, A., P.V., Box 1080, Haney .....	5.00	
	Matheson, James A., R.R.2, Cloverdale .....	.25	
20	Overstall, John, Matsqui .....	.25	
	Campbell, Malcolm, P.V., 2475 E. 54th Ave., City .....	15.00	
	Campbell, Malcolm, Dist., 2475 E. 54th Ave., City .....	10.00	
	Singh, Sunda, Box 210, Abbotsford .....	10.00	
	Gabriel, A., Fort Langley .....	.25	
	<b>November 10, 1936</b>		
	Hadden, George, R.R.1, Milner .....	.25	
	Bodaly, Cyril Walter, Fort Langley .....	.25	
	Prygroski, Joe, Abbotsford .....	.25	
	Lott, William, Langley Prairie .....	.25	
30	Tasker, Frederick, A., R.R.1, Abbotsford .....	.25	
	Dickout, G. Henry, R.R.2, Chilliwack .....	.25	
	Sinclair, Frederick N., R.R.1, Sardis .....	5.00	
	Twiss, William J., 402 Pender St. W., City .....	20.00	
	Greybrook Farm Dairy Ltd., P.V., 789 Pender St. W., City	17.50	
	Manley, E. William, R.R.1, Abbotsford .....	5.00	
	Wood, Margaret A., R.R.1, Port Kells .....	.25	
	Nelson, Thomas A., Ladner .....	.25	
	Simpson, Wm. E., R.R.2, Cloverdale .....	7.50	
	Birnie, Peter, R.R.2, Sardis .....	.25	
40	Fowler, S. Ed. J., R.R.2, Sardis .....	.25	
	Dorko, Mrs. H., Vedder Crossing .....	.25	
	Kushner, Mrs. Geo., Vedder Crossing .....	.25	
	Lakberg, A. G., R.R.3, Sardis .....	10.00	
	Gill, Evan, Atchelitz P.O. ....	2.50	
	Jacobson, Oscar T., Matsqui .....	.25	
	Spring, Isaac T., R.R.1, Matsqui .....	5.00	

RECORD <hr/> <i>In the Supreme Court of British Columbia</i> <hr/> Plaintiffs' Exhibit No. 23 Statement of Licence Fees Received by Defendant Board Nov. 1936 (Cont'd)	Isdal, T. G., R.R.1, White Rock ..... Beaton, Wm. A., Agassiz ..... MacPherson, Stewart, Agassiz ..... Novak, John, Langley Prairie ..... Price, Mary, Coghlan ..... Timm, Hans, Sub P.O. 36, City ..... Smith, John Henry, R.R.1, Matsqui ..... Ruby Farm, P.V., (J.H. Rube), Langley Prairie ..... Brown, John, P.V., Port Haney ..... Ciggie, Mrs. Annie, Aggasiz ..... Ludchak, Paul, Rosedale ..... Erho, Mrs. N. A., Box 212, Sardis ..... Bose, Henry, Surrey Centre ..... Johnson, Sydney, R.R.1, Milner ..... Fletcher, Richard, R.R.1, Abbotsford ..... Warm, John, Sardis ..... Herbert, Daniel E., Pitt Meadows ..... Short (R. H. & J. N.) Bros., R.R.2, Chilliwack ..... Beaton, James Andrew, Rosedale ..... Campbell, Ernest Dewar, R.R.1, Sardis ..... Middlebrook, Arthur, Abbotsford ..... Ross, Ernest E., Agassiz P.O. .... Preston, R. J. & Smith W., Delta Manor, Ladner ..... Jones, Edwin, R.R.1, Railway Ave., Steveston ..... Lee, John, Ruskin ..... Paulson, Miss Adall, P.V., Port Moody ..... Porcher, George, R.R.1, Cloverdale ..... Yusko, Geo., Pitt Meadows ..... Daw, Alfred R., R.R.1, Langley Prairie ..... Urquhart, Grant W., R.R.1, Coghlan ..... Blair, Mrs. Fanny, Cloverdale ..... Young, John, Prod., University of B.C. Farm, City ..... Young, John, Dist., Vancouver ..... Dusterhoeft, William, R.R.2, Sardis ..... Mills, Howard, Prod., R.R.3, New Westminster ..... Rees, Anson, Aldergrove ..... Lapushman, Lazar, Aldergrove P.O. .... MacDonald, Graham, Vancouver .....	.25 .25 .25 .25 .25 .25 5.00 2.50 1.00 5.00 5.00 .25 17.50 .25 .25 .25 .25 .25 10.00 .25 .25 .25 5.00 2.50 .25 5.00 5.00 .25 5.00 .25 .25 .25 15.00 10.00 10.00 5.00 .25 .25 .25	10 20 30 40
<b>November 12, 1936</b>			
Arnold, F. W., Sr., Sardis (R.R.1) ..... Bruskey, Geo. Allan, Aldergrove ..... Vlag, Leendert, P.V., Matsqui ..... Jack, Mrs. Annie, R.R.1, Coghlan ..... Edmondson, T. L., Agassiz ..... Richards, A. Chas., R.R.2, Cloverdale ..... Camata, Joe, P.V., 1144 Ewen Ave., Queensborough P.O...	20.00 5.00 15.00 5.00 10.00 2.50 2.50	40	

	Meadowvale Farm, per W. T. McArthur, Pitt Meadows . . . . .	20.00	RECORD
	Trainor, J. C., R.R.1, Ladner . . . . .	5.00	—
	Lanoville, Dolphis, R.R.1, Eburne . . . . .	5.00	<i>In the</i>
	Rokstad, Balfdan, R.R.1, Coghlan . . . . .	2.00	<i>Supreme Court</i>
	Jansen, Fred, R.R.1, White Rock . . . . .	.25	<i>of British</i>
	Homfeld, Ernest, R.R.2, Cloverdale . . . . .	.25	<i>Columbia</i>
	McFee, Donald, R.R.3, Sardis . . . . .	.25	—
	Murphy, John, Clayburn . . . . .	.25	Plaintiffs'
	Anderson, Archie, Matsqui . . . . .	.25	Exhibit
	10 Smith, F. C., Matsqui . . . . .	10.00	No. 23
	Mufford, Thos C., R.R.1, Milner . . . . .	5.00	Statement of
	McCrimmon, D. J., Riverside Rd., Abbotsford . . . . .	.25	Licence Fees
	Latter, Mrs. M. E., Abbotsford . . . . .	.25	Received by
	Farmer, Frank J., R.R.2, Abbotsford . . . . .	.25	Defendant
	McPherson, William F., Harrison Hot Springs . . . . .	5.00	Board
	Jansen, Henry John, c/o J. J. Reimer, R.R.1, Sardis . . . . .	.25	Nov. 1936
	Ohlhausen, Michel, R.R.1, Sardis . . . . .	.25	(Cont'd)
	Brown, J. J., Surrey Centre . . . . .	17.50	
	Dyck, Frank R., Abbotsford . . . . .	.25	
	20 Cooper, Allan G. S., Abbotsford . . . . .	.25	
	Scott, Roy Ernest, R.R.3, Sardis . . . . .	.25	
	Inglis, Thos. C., R.R.1, Port Kells . . . . .	5.00	
	Peers, Ross, Sardis . . . . .	5.00	
	Norgaard, Geo., R.R.1, Coghlan . . . . .	.25	
	Peters, William J., Laidlaw . . . . .	.25	
	Burrows, Harry W., R.R.2, Sardis . . . . .	.25	
	Ruebert, David, R.R.3, Sardis . . . . .	.25	
	Edmondson, M. L., Sardis . . . . .	.25	
	Roberts, Francis, R.R.2, Sardis . . . . .	.25	
	30 Mitchell, Ira C., R.R.2, Abbotsford . . . . .	.25	
	Richardson, Mrs. A., Pitt Meadows . . . . .	.25	
	Hickman, Maurice, J., R.R.1, Chilliwack . . . . .	.25	
	Friesen, Peter P., Yarrow . . . . .	.25	
	Borman, Mike, Ladner . . . . .	.25	
	Wright, Smith, R.R.1, Ladner . . . . .	25.00	
	Kliwer, John, Yarrow . . . . .	.25	
	Redekopp, Helen, R.R.3, Sardis . . . . .	10.00	
	Barnes, Robert G., P.V., Port Coquitlam . . . . .	12.50	
	Nickel, Benjamin C., Agassiz . . . . .	.25	
	40 Reid, John (2), R.R.2, Langley Prairie . . . . .	.25	
	Currie, Geo, C., R.R.2, Sardis . . . . .	.25	
	Reade, Charlotte, R.R.2, Sardis . . . . .	15.00	
	Stewart, Louis W., Mount Lehman . . . . .	.25	
	Lehman, Carson, Mount Lehman . . . . .	10.00	
	Berg, Julius Anten, Pitt Meadows . . . . .	.25	
	Carlson, Mrs. C., Cheam View . . . . .	10.00	
	Newfeld, J. Peter, Huntingdon . . . . .	.25	

<p>RECORD — <i>In the Supreme Court of British Columbia</i> — Plaintiffs' Exhibit No. 23 Statement of Licence Fees Received by Defendant Board Nov. 1936 (Cont'd)</p>	<p>Pearse, A. Wm., P.V., Chilliwack ..... 12.50                  Standing, A. F., R.R.1, Eburne ..... .25                  Singh, Kahar, R.R.2, Chilliwack ..... .25                  Ludvig, Emil, Chilliwack ..... .25                  Helmes, Henry P., R.R.1, Sardis ..... 10.00                  Saunderson, G. H., R.R.2, Sardis ..... .25                  Davis, C. C., R.R.2, Chilliwack ..... .25                  Farrer, J. M. (Miss), R.R.2, Sardis ..... 25.00                  Maynard, Lorenzo L., R.R.1, Sardis ..... .25                  Smale, N. J., Rosedale ..... .25 10                  MacAulay, Duncan, Cloverdale ..... .25                  Stulfelder, Jos., Bradner ..... .25                  Elliott, J., Bradner ..... .25                  Porter, Robt. R., Murrayville ..... 5.00                  Carter, H. L., Fort Langley ..... .25                  Bell, Mrs. B. S., 709—5th Ave., New Westminster ..... 7.00                  Kipp, C. Archibald, Chilliwack ..... .25                  Warrack, James R., Ladner ..... 5.00                  Hardy, Mrs. A., Box 82, Agassiz ..... .25                  Adamson, A. C. &amp; A., R.R.2, Chilliwack ..... 15.00 20                  Weir, Robert B., Reeves Rd., Chilliwack ..... 10.00                  Crowe, Sidney C. &amp; Thos. C., Whonnock ..... .25                  Ellingsen, Mrs. A., Matsqui ..... 10.00                  Kennedy, Fanny Viola, Pitt Meadows ..... 7.50                  Federuk, Mrs. Martha, R.R.2, Chilliwack ..... .25                  Lawrence, A. J., R.R.2, Chilliwack (re Jas. Cartmell) ..... 5.00                  Gilmore, Les., R.R.1, Steveston ..... 50.00                  Marshall, Robt. K., R.R.1, Milner ..... .25                  Calvert, William, Prod., Box 227, Steveston ..... 5.00                  Calvert, William, Dist., Steveston ..... 5.00 30                  Embree's Dairy, Prod., R.R.1, New Westminster ..... 7.50                  Embree's Dairy, Dist., New Westminster ..... 10.00                  Delta Dairy, Prod., R.R.1, New Westminster ..... 10.00                  Delta Dairy, Dist., New Westminster ..... 10.00</p> <p style="text-align: center;"><b>November 13, 1936</b></p> <p>Watson, William, Aldergrove ..... .25                  McLaren, Robert, R.R.1, Langley Prairie ..... .25                  Paton, John M. C., R.R.1, Abbotsford ..... .25                  Brown, Geo. F., R.R.1, Aldergrove ..... .25                  Medosweet Dairy Products Ltd., University Hill, City, Mfg. 2.50 40                  Hawke, R. H., Trsfr., R.R.1, Eburne ..... 2.00                  Maguire, William, Mount Lehman ..... 5.00                  Tamboline, Mrs. L., R.R.1, Ladner ..... 7.50                  Barton, E. H., Chilliwack ..... 5.00                  Irwin, Mrs. K. &amp; T. J., Agassiz ..... .25                  Stevenson, William, R.R.2, Chilliwack ..... 5.00                  Lewis, H. S., R.R.2, Chilliwack ..... .25</p>
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	Sutton, Harold A., P.V., Pitt Meadows .....	.25	RECORD
	Shelton, Arthur, Chilliwack .....	.25	—
	Pearson, G. Jos., Abbotsford .....	.25	<i>In the</i>
	Hamlyn, T., P.V., (Cash Returned) 15/12/36,		<i>Supreme Court</i>
	R.R.1, Steveston .....	1.25	<i>of British</i>
	Nazareno, Chas, Rosedale .....	.25	<i>Columbia</i>
	Peschke, O. Wm., R.R.2, Cloverdale .....	10.00	Plaintiffs'
	Baker, Albert G., Agassiz .....	.25	Exhibit
	Chell, Mrs. M., P.V., Box 183, Mission City .....	.25	No. 23
10	Patterson, Mrs. M., Glen Valley .....	.25	Statement of
	Koehn, David, Pitt Meadows .....	.25	Licence Fees
	Iberg, Charles, R.R.1, Langley Prairie .....	10.00	Received by
	Erickson, E., Chilliwack .....	.25	Defendant
	Carmichael, Robert, Huntingdon .....	.25	Board
	Whittaker, Ed. S., P.V., 1448 Burgus St., New Westminster	2.50	Nov. 1936
	Thomas, Walter J., R.R.1, White Rock .....	.25	(Cont'd)
	Hudson, James R., Steveston P.O. ....	5.00	
	Merson, Mrs. R. M., R.R.2, Chilliwack .....	.25	
20	Brown, Roy, Quilchena Dairy, c/o Province Newspaper,		
	City .....	25.00	
	McDaniel, Jacob L., R.R.3, Sardis .....	.25	
	Isaak, H. H., Yarrow .....	.25	
	Langner, Gust, Yarrow .....	5.00	
	Toop, Robert S., R.R.1, Sardis .....	10.00	
	Rutledge, G. E., Trsfer, 1155 E. 19th, City .....	2.00	
	McKay, Andrew, P.V., 6482 Douglas Rd., New West'r,		
	(Vancouver Height P.O.) .....	2.50	
	Davison, Thos., Prod., R.R.1, Haney .....	12.50	
	Davison, Thos., Dist., R.R.1, Haney .....	10.00	
30	Reeve, John Ed., R.R.1, Abbotsford .....	.25	
	Loney Brothers, Trsfr., R.R.3, New Westminster .....	2.00	
	<b>November 17, 1936</b>		
	Chand, Fatsh, R.R.3, Sardis .....	.25	
	Faint, Ed., Jr., P.V., Port Moody .....	2.50	
	Booth Estate, Ralph, P.V., (Miss A. Booth), Box 58,		
	New Westminster .....	10.00	
	May, Fred H., R.R.1, Eburne .....	5.00	
	McKee, John R., Box 230, Abbotsford .....	5.00	
	Hamilton, Jay H., Box 78, Agassiz .....	5.00	
40	Cameron, Harold, Rosedale .....	5.00	
	Dahlstrom, Carl L., Cheam View .....	10.00	
	Newton, Fred & Wm., P.V., 4300 Marine Dr., Burnaby ....	17.50	
	Tolley, Wilfred J., R.R.1, Steveston .....	5.00	
	Cummins, Edgar P., P.V., Dollarton .....	2.50	
	Tolley, Emmie, Steveston .....	5.00	
	Rea, William Ed., P.V., 909—61st Ave. E., Vancouver....	15.00	
	McDonald, Clarence, P.V., Agassiz, B.C. ....	10.00	

RECORD	Bibby, Chas. Geo., P.V., 4518 Smith Ave., Burnaby .....	5.00	
—	Paulsen, Bernard, 5207 Douglas Rd., Burnaby .....	2.50	
<i>In the</i>	Stoker, Howard B., P.V., Dearne Dairy, North Vancouver	5.00	
<i>Supreme Court</i>	Anderson, J. W., Dewdney .....	.25	
<i>of British</i>	Davies, Katherine, Dewdney .....	.25	
<i>Columbia</i>	—		
Plaintiffs'	Ansell, Herbert J., Port Haney .....	.25	
Exhibit	Currie, Dr. Jas. S., Box 506, Chilliwack .....	.25	
No. 23	Johnson, Neil William, R.R.1, Cloverdale .....	.25	
Statement of	Purver, R. G., Clayburn .....	.25	
Licence Fees	Straiton, Roy D., R.R.2, Abbotsford .....	.25	10
Received by	Erho, Mike, Vedder Crossing .....	.25	
Defendant	Denison, Sam. William, R.R.1, Sardis .....	.25	
Board	Horrocks, John, R.R.2, Cloverdale .....	.25	
Nov. 1936	Muirhead, R. J., R.R.2, Chilliwack .....	.25	
(Cont'd)	Wiens, Henry K., R.R.1, Sardis .....	.25	
	Harrington, Richard, R.R.1, White Rock .....	.25	
	Wilson, Mrs. A., R.R.1, Port Kells .....	.25	
	Hyndman, H. D., R.R.1, Langley Prairie .....	.25	
	Steel, James (2), Mount Lehman .....	.25	
	Lazenby, William H., Sardis .....	.25	20
	Edmondson, A. H., Agassiz .....	.25	
	Evaniuck, Nick & Ostapchuk, Mike, R.R.1, Sardis .....	.25	
	<b>November 18, 1936</b>		
	Stevenson, Mrs. Mary, R.R.1, Langley Prairie .....	.25	
	Pantenburg, Joe, Murrayville .....	.25	
	Lennox, J. H. (waiting further remittance), Milner .....	2.00	
	<b>November 19, 1936</b>		
	Huggins, O. M., R.R.2, Cloverdale .....	2.50	
	Wayne, Walter, P.V., 1470 McGown Ave., Capilano P.O., North Vancouver .....	10.00	30
	Gilmore, A. C., R.R.1, Eburne .....	22.50	
	<b>November 23, 1936</b>		
	Orrock, Fred G., Aldergrove .....	.25	
	Law, Thos. Ed., R.R.2, Chilliwack .....	5.00	
	Wallace Bros. Ltd., Ladner .....	.25	
	Janicki, Mrs. D. L., Rosedale .....	.25	
	Bassani, Frank, R.R.1, Matsqui .....	.25	
	Tattersall, Mrs. A., Glen Valley .....	.25	
	Jewell, A., Trsfr., 825 W. 68th Avenue, City .....	2.00	
	Associated Dairies Ltd., P.V., Vancouver .....	70.00	40
	McMyn, Geo., S., Trsfr., Pitt Meadows .....	2.00	
	McGann, Mrs. W. L., P.V., Lochdale P.O. ....	5.00	
	<b>November 24, 1936</b>		
	Hollander, August J., R.R.1, Langley Prairie .....	.25	
	Scheck, George, R.R.1, Aldergrove .....	.25	
	Jessoma Farms Ltd., 555 Burrard St., City .....	5.00	
	Fellardeau, Mrs. Geo., Fort Langley .....	.25	

		<b>November 25, 1936</b>	RECORD
	Kelly, J. G., Kilgard .....	.25	—
	Nelson, W., Milner .....	10.00	<i>In the</i>
	Bell, Barbara S. (see Nov. 12), New Westminster .....	.50	<i>Supreme Court</i>
			<i>of British</i>
			<i>Columbia</i>
			—
	Blair, Mrs. Fanny (endorsement), R.R.2, Cloverdale .....	5.00	
	Gaffney, Jos. (endorsement), R.R.2, Cloverdale .....	2.50	Plaintiffs'
			Exhibit
			No. 23
10	Webb, John Fred., Trsfr., R.R.2, Sardis .....	2.00	Statement of
	Fraser Valley Milk Producers', Vancouver .....	7,359.75	Licence Fees
	Huggins, James, Abbotsford .....	.25	Received by
	Lees, James, Chilliwack .....	15.00	Defendant
	Howard, Mrs. J. M., Aldergrove .....	.25	Board
	Smitz, Rudolph R., Box 15, Abbotsford .....	.25	Nov. 1936
	Chard, William, R.R.1, Coghlan .....	.25	(Cont'd)
			Dec. 1936
		<u>\$8,664.25</u>	
20	Exchange .....	.60	

**LOWER MAINLAND DAIRY PRODUCTS BOARD**

**Cash Summary  
For the Month of December, 1936**

	Bank Deposits .....	\$684.80	
	Exchange .....	.90	
	Suspense Account .....	11.00	
	W. Calvert   \$5.00		
	J. Brown     1.00		
	A. Wadel     5.00		
30	Licence Fees—Producers .....	\$594.40	
	Licence Fees—Manufacturers .....	85.00	
	Suspense Account .....	17.00	
	E. J. Westline   \$7.50		
	Harriet McKay   2.00		
	K. McFaul       2.50		
	S. Baker         5.00		
40	Exchange .....	.30	
		<u>\$696.70</u>	<u>\$696.70</u>

Entered  
Synoptic No. 4.

RECORD

December Cash List

<p><i>In the</i>  <i>Supreme Court</i>  <i>of British</i>  <i>Columbia</i></p> <hr/> <p>Plaintiffs'          Exhibit          No. 23          Statement of          Licence Fees          Received by          Defendant          Board          Dec. 1936          (Cont'd)</p>	<p style="text-align: center;"><b>December 5, 1936</b></p> <p>Wright, M. J., Pitt Meadows .....1947 \$ .25          Goesen, H. J., Yarrow .....1948 .25          Johnson, H. E., Dewdney .....1949 .25          Millard, Arthur J., County Line P.O. ....1950 .25          Coqualeetza Res. School, Sardis .....1951 .25          Davidson, Hugh, Fort Langley, Res.: Vancouver..1952 15.00          Robbins, C. W., Chilliwack .....1953 5.00          Livingstone, Delbert, R.R.1, Eburne .....1954 5.00 10          Strohmaier, Christ., Chilliwack .....1955 .25          Wolfe, Peter A., Yarrow .....1956 .25</p> <p style="text-align: center;"><b>December 7, 1936</b></p> <p>Bates, Otho William, R.R.1, Ladner .....1957 .25          Dickson, Jas. F., P.V., 3206 Buckingham Ave.,          New Westminster .....1958 2.50          Carey, Geo., Thos., Agassiz .....1959 .25</p> <p style="text-align: center;"><b>December 8, 1936</b></p> <p>Hill, J. R., Trsfr., R.R.2, Chilliwack ..... 17 2.00          Walter, Philip, R.R.1, Abbotsford .....1960 2.50 20  <span style="padding-left: 150px;">Exch. 15c</span> 2.50          Klassen, H. H., Agassiz .....1961 .25          Hrusik, John, R.R.2, Chilliwack .....1962 .25</p> <p style="text-align: center;"><b>December 11, 1936</b></p> <p>Weslick, George, R.R.2, Sardis .....1963 .25          Wadel, Andrew, Agassiz (see also Nov. 3).....1964 5.00          McIntyre, John, R.R.2, Cloverdale .....1965 .25</p> <p style="text-align: center;"><b>December 12, 1936</b></p> <p>Acme Dairy, Dist., Vancouver ..... 18 40.00</p> <p style="text-align: center;"><b>December 14, 1936</b></p> <p>Gray, W. L., Popcum .....1966 .25 30          Armstrong, Robert, R.R.2, Sardis .....1967 15.00</p> <p style="text-align: center;"><b>December 15, 1936</b></p> <p>Brown, John, P.V., Port Haney (see also Nov. 10).1968 1.50          Lawrence, A. J., Trsfr, 19 R.R.2, Chilliwack ..... 2.00          F.V.M.P.A., Mfg., City ..... 20 5.00</p> <p style="text-align: center;"><b>December 16, 1936</b></p> <p>Dunnell, Albert, P.V., 3536 Buckingham Ave.,          Burnaby Lake .....1969 2.50          Larter, H. Ivan, Trsfr., Hope River Road,          Chilliwack ..... 22 2.00 40          Miller, Victor, Trsfr., R.R.1, Chilliwack ..... 21 2.00          McLeod, E. M., Trsfr., Box 185, Chilliwack ..... 24 2.00</p> <p style="text-align: center;"><b>December 19, 1936</b></p> <p>Rottluff &amp; Adams, Trsfr., 23 Exch. 15c, Matsqui... 2.00          Groat, William W., Abbotsford, Trsfr. .... 25 2.00</p>
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		RECORD
<b>December 22, 1936</b>		
	Calvert, Wm., Dist., 26, Box 227, Steveston .....	5.00
	McKay, Andrew., Dist., New Westminster .....	2.00
	Webster, J. A., Trsfr., Sardis .....	2.00
	<b>December 23, 1936</b>	
	F.V.M.P.A., City .....	537.90
	McDonald, Jas., Trsfr., Mount Lehman .....	2.00
	Tuyttens, Jerome, Agassiz .....	.25
	<b>December 28, 1936</b>	
10	Sandberg, Nels, Abbotsford .....	2.00
	Vlag, Leendert, Box 143, Matsqui .....	10.00
	Bryant, C. H., Dewdney .....	.25
	<b>December 30, 1936</b>	
	Hewitt, Mrs. Dora M., Cloverdale .....	5.00
		<hr/>
		\$684.50
		<hr/>
	Exchange .....	.30
		<hr/>

—  
*In the  
 Supreme Court  
 of British  
 Columbia*  
 —  
 Plaintiffs'  
 Exhibit  
 No. 23  
 Statement of  
 Licence Fees  
 Received by  
 Defendant  
 Board  
 Jan. 1937  
 (Cont'd)

20

**CASH LIST  
 January, 1937**

**January 4, 1937**

	F.V.M.P.A., City .....	\$ 84.65
	McFadyen, H., Trsfr., Abbotsford, Exch. 15c.....	2.00
	Hamlyn, H. A. (Mrs.), P.V., Steveston, (R.R.1).....	1.66

**January 5, 1937**

	Henry, Richard Thos., R.R.2, Chilliwack .....	.25
	Townsend, Allan R., Trsfr., Box 10, Ladner .....	2.00
	Clark, James C., Trsfr., Cloverdale .....	2.00
30	Starr, J. L., Abbotsford .....	7.50
	McIntyre, Jas. D., P.V., Cloverdale Dairy, Cloverdale....	5.00
	Mercer, Stinson, R.R.2, Chilliwack .....	.25

**January 7, 1937**

	Merson, Frank, Trsfr., R.R.2, Chilliwack (Exc. 15c)....	2.00
	Kipp, James E., Dist., Chilliwack .....	10.00
	Lindahl, L. C., R.R.2, Cloverdale .....	.25
	Lindahl, H., R.R.2, Cloverdale .....	10.00

**January 11, 1937**

	Barker, A. S., P.V., R.R.1, Chilliwack .....	10.00
40	Barker, A. S., Dist., R.R.1, Chilliwack .....	10.00

**January 12, 1937**

	Hooge, Henry, R.R.1, Abbotsford, B.C. ....	.25
	Farmer, John, Straiton .....	.25
	Starr, Perry W., R.R.2, Abbotsford .....	30.00
	Seymour, Mrs. Rose, R.R.2, Chilliwack .....	.25
		<hr/>



## CASH LIST

February, 1937

**February 1, 1937**

F.V.M.P.A., City .....	\$125.35
Eisentadt, Frank A., Rosedale, B.C. ....	.25

**February 5, 1937**

Miller, Weldon, Rosedale, B.C., Hauler .....	2.00
George, Mrs. Ada, R.R.1, Chilliwack (endorsement).....	7.50
Alm, Uno E., R.R.3, Cloverdale .....	5.00
10 Savage, John, R.R.1, Ladner .....	5.00

**February 9, 1937**

Quinlan, William J., Trsfr., Chilliwack .....	2.00
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**February 16, 1937**

Ryder, Stanley, R.R.2, Chilliwack .....	.25
Weidenhammer, E., Pitt Meadows, B.C. ....	.25
Steves, Madelyn Champier, Road No. 1, Steveston .....	.25
F.V.M.P.A., City .....	25.75
F.V.M.P.A., endorsement re Knud Bott .....	10.00
F.V.M.P.A., endorsement re A. C. Davis .....	5.00

(188.60)

**February 19, 1937**

F.V.M.P.A., endorsement re T. Schenkeveld .....	5.00
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## RECORD

*In the  
Supreme Court  
of British  
Columbia*

Plaintiffs'  
Exhibit  
No. 23  
Statement of  
Licence Fees  
Received by  
Defendant  
Board  
Feb. 1937  
(Cont'd)

RECORD

EXHIBIT 18

In the  
Supreme Court  
of British  
Columbia  
Plaintiffs'  
Exhibit  
No. 18  
Minutes of  
Meeting of  
Defendant  
Board  
Dec. 30, 1936

Minutes of a meeting of the Lower Mainland Dairy Products Board, held at its office, 804 Credit Foncier Building, 850 West Hastings Street, Vancouver, B.C., at 11.00 a.m. Wednesday, December 30th, 1936.

Present:

- Messrs. W. J. Park (in the Chair)
- W. T. McArthur
- T. M. Edwards
- Ernest MacGinnis (Secretary)

10

The minutes of the meeting held on the 28th of December, 1936, were upon motion adopted as read.

RESOLVED that Order No. 6, prohibiting the marketing of the regulated product unless the producer of such regulated product is the holder of an unexpired licence as such from this Board, be and is hereby determined and made effective as on this date.

\* \* \* \* \*

The Secretary was instructed to send copies of Order No. 6, the Scheme and a letter to all distributors forthwith.

Mr. Wakely presented a written report covering interviews he had had with various producers in the area relative to registration and licencing. 20

The meeting then adjourned.

“W. J. Park,”  
Chairman.

Confirmed this 31 day of December, 1936.  
“Ernest MacGinnis,” Secretary.

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY 30  
Exhibit No. 18  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37  
“F.T.H., Registrar”



RECORD

EXHIBIT 24

In the  
Supreme Court  
of British  
Columbia

FRASER VALLEY MILK PRODUCERS' ASSOCIATION

425 W. 8th Ave., Vancouver, B.C.

8 E.B.

January 12th, 1937.

Plaintiffs'  
Exhibit  
No. 24  
Letter from  
Fraser Valley  
Milk  
Producers'  
Assn. to its  
Members  
Jan. 12, 1937

Dear Sir or Madam:

On December 30th, 1936, the Milk Marketing Board issued Order No. 6, which reads in part as follows:

"That no person shall, within the area to which the Scheme relates, market the regulated product unless the producer of such regulated product is the holder of an uncanceled unexpired licence as such from this Board." 10

The effect of this order is that it will be an offense for our Association to continue accepting milk from any shipper who is not registered with the Board, and has neither received nor applied for his licence.

Being most anxious to obey the Milk Board's orders, we now find it necessary to notify all of our members who have not complied with the Board's registering and licencing order, that unless they apply for licence not later than January 29th, next, we will have to discontinue accepting their milk from that date. 20

To avoid being forced to take this action, we urge you to make application for your licence forthwith, and to facilitate this, we enclose the following forms:

- Application for licence;
- Order on F.V.M.P.A. to pay licence fee;
- Return envelope.

You will note that we have directed the return envelope to our office. Our reason for doing this is that we want to do all we can to prevent any hardship that might arise by application being sent direct to the Board and the Board delaying in informing our office by the date we have set. So long as the application is in our hands by this date, it will not be necessary for us to withhold service. We will attend to the delivery of the application to the Milk Board. 30

We respectfully urge you to co-operate with us by complying with the Milk Board's requirements herein, as we feel that only by giving this Board proper support may we expect it to produce the results from the Marketing Scheme the Board is striving to administer.

By Order of the Board,

WLM/B  
Enc.

"W. L. Macken,"  
President.

40

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 24

Shannon et al vs.  
Lower Mainland Dairy  
Products Board

Put in by Plaintiffs  
Date Feb. 17/37  
"F.T.H., Registrar"

EXHIBIT 20

RECORD

*In the  
Supreme Court  
of British  
Columbia*

Minutes of a meeting of the Lower Mainland Dairy Products Board, held at its office, 804 Credit Foncier Building, 850 West Hastings Street, Vancouver, B.C., on Wednesday, January 13th, 1937, at 11 a.m.

Plaintiffs'  
Exhibit  
No. 20  
Minutes of  
Meeting of  
Defendant  
Board  
Jan. 13, 1937

Present:

- Messrs. W. J. Park (in the Chair)
- W. T. McArthur
- T. M. Edwards
- Ernest MacGinnis (Secretary)

10

The minutes of the meeting held on the 12th day of January, 1937, were upon motion adopted as read.

Moved by Mr. T. M. Edwards and seconded by Mr. W. J. Park, THAT Order No. 7 designating the Dairy Products Co-operative Association as the Agency through which the regulated product shall be marketed be and is hereby determined and made effective on the date set out therein.

Carried .....

“W. J. Park,”  
Chairman.

20

Confirmed this 15 day of January, 1937.  
“Ernest MacGinnis,” Secretary.

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 20  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37  
“F.T.H., Registrar”

30

RECORD

## EXHIBIT 21

*In the  
Supreme Court  
of British  
Columbia*

MILK MARKETING SCHEME OF THE LOWER  
MAINLAND OF BRITISH COLUMBIA

Plaintiffs'  
Exhibit  
No. 21  
Order No. 7  
of Defendant  
Board  
Jan. 13, 1937

## ORDER No. 7

PURSUANT to the provisions of the Natural Products Marketing (British Columbia) Act and Amending Acts and of the Milk Marketing Scheme of the Lower Mainland of British Columbia, the LOWER MAINLAND DAIRY PRODUCTS BOARD hereby orders and determines:

1. That DAIRY PRODUCTS CO-OPERATIVE ASSO- 10  
CIATION, of 802 Credit Foncier Building, in the City of  
Vancouver, British Columbia, be and it is hereby designated the  
agency through which all milk shall be marketed within the area  
to which the scheme relates.

2. That the marketing of milk after the 15th day of  
February, A.D. 1937, within the area to which the scheme relates  
except through the said agency is hereby prohibited.

3. That the said agency is hereby authorized to purchase  
all milk or any part thereof marketed through such agency.

4. That after the 15th day of February, A.D. 1937, no 20  
person shall, within the area to which the scheme relates, sell  
or offer for sale any milk to any person other than such agency.

5. That any person selling or offering for sale milk which  
has been marketed through or by such agency and such agency  
shall be exempt from the provisions of clauses 2 and 4 of this  
Order.

6. That any producer vendor holding unexpired uncanceled 30  
licences as a distributor from this Board is exempt from the pro-  
visions of clauses 2 and 4 of this Order in selling or offering for  
sale milk produced by him on a dairy farm in respect of which  
a certificate, showing that such farm is classed as Grade "A,"  
has been given under subsection 2 of section 7 of the Milk Act,  
being Chapter 42 of the Statutes of British Columbia, 1926 and 27.

Wherever used in this Order, unless the context otherwise  
requires, the words defined in Section 2 of the Milk Marketing  
Scheme of the Lower Mainland of British Columbia effective  
from the 27th day of October, 1936, approved under the provisions  
of the Natural Products Marketing (British Columbia) Act and  
Amending Acts, shall have the meaning set forth in the said  
Section.



This Order is in force and effect from the 1st day of February, 1937. RECORD

DATED at Vancouver, B.C., this 13th day of January, A.D., 1937.

*In the  
Supreme Court  
of British  
Columbia*

LOWER MAINLAND DAIRY PRODUCTS BOARD

“W. J. Park”  
“T. M. Edwards”

Exhibit  
No. 21  
(Cont'd)

(Seal Lower Mainland  
Dairy Products Board)

10

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 21  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37  
“F.T.H., Registrar”

RECORD

EXHIBIT 3

*In the  
Supreme Court  
of British  
Columbia*

IN THE SUPREME COURT OF BRITISH COLUMBIA  
No. S 1436/36

Plaintiffs'  
Exhibit  
No. 3  
Notice to  
Minister of  
Justice for  
Canada and  
Affidavit of  
E. F.  
Newcombe  
Jan. 21, 1937

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID.  
Plaintiffs,

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD,  
Defendant. 10

TAKE NOTICE THAT on the 12th day of December, A.D. 1936, a Writ was issued by Ghent Davis, of the firm of Messrs. Davis, Pugh, Davis, Hossie & Lett, of 601 Royal Trust Building, 626 West Pender Street, Vancouver, B.C., on behalf of the Plaintiffs in this action, inter alia, for a declaration that the Natural Products Marketing (British Columbia) Act, being Chapter 38 of the Statutes of British Columbia, 1935, and the Natural Products Marketing (British Columbia) Act Amendment Act 1936, being Chapter 34 of the Statutes of British Columbia, 1936, are ultra vires of the Legislature of the Province of British Columbia. 20

AND FURTHER TAKE NOTICE that Thursday, the 11th day of February, 1937, at 11.00 o'clock in the forenoon, at the Court House, Vancouver, Province of British Columbia, has been appointed as the date and place for the trial of this action, and the argument of the case.

DATED at Vancouver, B.C., this 21st day of January, A.D. 1937.

“Ghent Davis,”  
Solicitor for the Plaintiffs. 30

TO: The Honourable the  
Minister of Justice.

This is Exhibit “A” referred to in the affidavit of Edmund Freeman Newcombe, sworn before me this 27th day of January A.D. 1937.

“Allan C. Travers,” A Notary Public in and for the Province of Ontario.

(Seal:  
Allan Collingwood Travers, 40  
Notary Public, Ontario).

EXHIBIT 3

RECORD

IN THE SUPREME COURT OF BRITISH COLUMBIA

1436/36 Ex. 3

*In the  
Supreme Court  
of British  
Columbia*

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID,  
Plaintiffs,

Plaintiffs'  
Exhibit  
No. 3  
Notice to  
Minister of  
Justice for  
Canada and  
Affidavit of  
E. F.  
Newcombe  
Jan. 27, 1937

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD,  
Defendant.

10

I, EDMUND FREEMAN NEWCOMBE, of the City of  
Ottawa in the County of Carleton in the Province of Ontario  
being duly sworn do depose and say—

THAT the attached document marked Exhibit "A" is a copy  
of the document which I have today served upon the Minister of  
Justice by handing the same personally to W. STUART  
EDWARDS, ESQUIRE, C.M.G., K.C., Deputy Minister of  
Justice.

DATED at Ottawa this 27th day of January, A.D. 1937.

20 SWORN before me at the City  
of Ottawa in the County of  
Carleton in the Province of  
Ontario this 27th day of  
January, A.D. 1937.

"Edmund F. Newcombe"

"Allan C. Travers," A Notary  
Public in and for the Province  
of Ontario.

(Seal:  
Allan Collingwood Travers,  
30 Notary Public, Ontario.)

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. 3  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 16/37  
"F.T.H., Registrar"

40

RECORD

## EXHIBIT 4

*In the  
Supreme Court  
of British  
Columbia*

Plaintiffs'  
Exhibit  
No. 4  
Notice to  
Att'y-Gen. of  
British  
Columbia and  
Affidavit of  
W. P. Lawson  
Jan. 21, 1937

IN THE SUPREME COURT OF BRITISH COLUMBIA

No. S 1436/36

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID,  
Plaintiffs,

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD,  
Defendant. 10

TAKE NOTICE that on the 12th day of December, A.D. 1936, a Writ was issued by Ghent Davis, of the firm of Messrs. Davis, Pugh, Davis, Hossie & Lett, of 601 Royal Trust Building, 626 West Pender Street, Vancouver, B.C., on behalf of the Plaintiffs in this action, inter alia, for a declaration that the Natural Products Marketing (British Columbia) Act, being Chapter 38 of the Statutes of British Columbia, 1934, and the Natural Products Marketing (British Columbia) Act Amendment Act 1936, being Chapter 34 of the Statutes of British Columbia, 1936, are ultra vires of the Legislature of the Province of British Columbia. 20

AND FURTHER TAKE NOTICE that Thursday, the 11th day of February, 1937, at 11:00 o'clock in the forenoon, at the Court House, Vancouver, Province of British Columbia, has been appointed as the date and place for the trial of this action, and the argument of the case.

DATED at Vancouver, B.C., this 21st day of January, A.D. 1937.

"Ghent Davis,"

Solicitor for the Plaintiffs. 30  
Service of a True Copy hereof  
admitted this 25th day of  
January, 1937.

"W. F. Bridge," Chief Clerk,  
Attorney-General's Dept.

TO: The Attorney-General of  
the Province of British  
Columbia.

In the Supreme Court of B.C.  
Shannon et al vs.

Lower Mainland Dairy  
Products Board

This is Exhibit marked "A"  
referred to in the affidavit of  
William Powell Lawson  
sworn before me this 26th day  
January, 1937. 40

"J. C. Bridgman" A Notary  
Public in and for the Province  
of British Columbia.

(Seal:  
Joseph C. Bridgman, Notary  
Public, British Columbia).

EXHIBIT 4

No. S 1436/36

RECORD

IN THE SUPREME COURT OF BRITISH COLUMBIA

*In the  
Supreme Court  
of British  
Columbia*

BETWEEN:

GEORGE WALKEM SHANNON, THOMAS HEDLEY  
McDONALD and MATTHEW BLACKWOOD McDERMID,  
Plaintiffs,

Plaintiffs'  
Exhibit  
No. 4  
Notice to  
Att'y-Gen. of  
British  
Columbia and  
Affidavit of  
W. P. Lawson  
Jan. 26, 1937

AND:

LOWER MAINLAND DAIRY PRODUCTS BOARD,  
Defendant.

10

I, WILLIAM POWELL LAWSON, of number 918 Govern-  
ment Street, in the City of Victoria in the Province of British  
Columbia, solicitor, make oath and say:

20

1. That I did on Monday the twenty-fifth day of January,  
1937, duly serve the Attorney-General of the Province of British  
Columbia with the original of the Notice herein dated the 21st  
day of January, A.D. 1937, a true copy of which is now shown  
to me and marked Exhibit "A" to this affidavit, by leaving the  
same with the Chief Clerk in the Department of the Attorney-  
General in the Parliament Buildings in the City of Victoria in  
the said Province of British Columbia.

Sworn before me at the City  
of Victoria in the Province of  
British Columbia this 26th day  
of January, A.D. 1937.  
"J. C. Bridgman."  
A Notary Public in and for the  
Province of British Columbia.

"W. P. Lawson"

(Seal:  
30 Joseph C. Bridgman, Notary  
Public, British Columbia).

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 4  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 16/37  
"F.T.H., Registrar"

40

RECORD

EXHIBIT 22

*In the  
Supreme Court  
of British  
Columbia*

LOWER MAINLAND DAIRY PRODUCTS BOARD  
850 West Hastings Street, Vancouver, B.C.

No. 3497

MILK PRODUCERS LICENCE

Plaintiffs'  
Exhibit  
No. 22  
Form of  
Producer's  
Licence Issued  
by Defendant  
Board

THIS IS TO CERTIFY THAT.....

of.....British Columbia,  
....., having made application for a  
(Occupation)

MILK PRODUCERS LICENCE, pursuant to the provisions of 10  
the "Milk Marketing Scheme of the Lower Mainland of British  
Columbia," is hereby licenced to carry on business in that  
capacity in accordance with the terms of this Licence, and the  
Provisions of the said Scheme, and all orders and regulations  
made thereunder.

THIS LICENCE is not transferable and is subject to cancel-  
lation, and is effective until.....  
unless cancelled prior to that date.

ISSUED at Vancouver, British Columbia, on the date  
written below. 20

Group No..... Date.....

Order/Cash Received, \$...... Adj. Folio.....

LOWER MAINLAND DAIRY PRODUCTS BOARD

.....  
Accountant.

LOWER MAINLAND DAIRY PRODUCTS BOARD  
"Ernest MacGinnis," Secretary.

S. C. 1436/36  
SUPREME COURT OF B.C. 30  
VANCOUVER REGISTRY  
Exhibit No. 22  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37  
"F.T.H., Registrar"

EXHIBIT 25

RECORD

*In the  
Supreme Court  
of British  
Columbia*

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Plaintiffs'  
Exhibit  
No. 25  
Figures of  
W. J. Park re  
Price of Milk

10

9 E. B.

S. C. 1436/36  
SUPREME COURT OF B.C.  
VANCOUVER REGISTRY  
Exhibit No. 25  
Shannon et al vs.  
Lower Mainland Dairy  
Products Board  
Put in by Plaintiffs  
Date Feb. 17/37  
"F.T.H., Registrar"

20

RECORD

“A” FOR IDENTIFICATION

S. C. 1436/36

*In the  
Supreme Court  
of British  
Columbia*

B. C. LOWER MAINLAND DAIRY PRODUCTS BOARD

MILK PRODUCERS LICENCE No. 1693

(Issued under authority of Natural Products Marketing  
(British Columbia) Act, Chap. 38-1934)

Licence Issued  
to Matthew B.  
McDermid by  
B.C. Lower  
Mainland  
Dairy  
Products  
Board  
Dec. 30, 1935

THIS IS TO CERTIFY that Matthew B. McDermid of  
R.R.1, Eburne, British Columbia, Farmer, having made applica-  
(Occupation)  
tion for a MILK PRODUCERS LICENCE, pursuant to the 10  
provisions of the “Milk Marketing Scheme of the Lower Main-  
land of British Columbia,” is hereby licenced to carry on business  
in that capacity in accordance with the terms of this licence, and  
the Provisions of the said “Scheme,” and all orders and regula-  
tions made thereunder.

THIS LICENCE is not transferable and is subject to can-  
cellation.

ISSUED at Vancouver, British Columbia, this 30th day of  
December, 1935.

B. C. LOWER MAINLAND DAIRY PRODUCTS BOARD 20  
“Ernest MacGinnis,” Secretary.

\* \* \* \* \*

(REVERSE SIDE)

SUPREME COURT OF B.C.  
VANCOUVER REGISTRY

Exhibit No. A for Iden.

Shannon et al vs.

Lower Mainland Dairy  
Products Board

Put in by Plaintiffs

Date Feb. 16/37

“F.T.H., Registrar” 30

\* \* \* \* \*

(ATTACHED TO LICENCE)

VANCOUVER POLICE COURT

Rex

vs.

Matthew B. McDermid

Exhibit: 4

Date 14/1/37