

A. P. Poussette, K.C., and H. A. Ward, Port Hope, for plaintiffs.

R. E. Wood, Peterborough, and D. O'Connell, Peterborough, for defendant.

MACMAHON, J.:—The Ambrose Brewing and Malting Co. were incorporated on 25th June, 1889, under the Joint Stock Companies Letters Patent Act, with an authorized capital of \$100,000, divided into 200 shares of \$500 each; and on 22nd September, 1897, by an order in council, the name of the company was changed to the Port Hope Brewing and Malting Company Limited.

Having in view the reorganization of the company and increasing its capital stock to \$150,000, the company, by an agreement under their seal, dated 21st September, 1903, assigned all the shares of the company not then already assigned to the Ontario Bank to John Crane, of Peterborough, to be held by him under the trusts declared therein until the re-organization of the company.

The 6th clause of the agreement provides that "if the re-organization shall become effectual as herein contemplated, said John Crane shall assign or have allotted to the persons who have paid their subscriptions in full the number of shares to which they are respectively entitled."

On 29th January, 1904, the shareholders of the company sanctioned a by-law for increasing the capital stock of the company to \$150,000; and on 17th March, 1904, the company sanctioned a by-law for the re-division of the original capital from the existing shares of \$500 each into shares of \$100 each.

On 24th March, 1904, supplementary letters patent were issued to the company confirming the by-laws.

Section 21, sub-sec. 3, of the Ontario Companies Act, R. S. O. 1897 ch. 191, provides that "upon due proof so made (of the sanction by the shareholders of the by-law for increasing the capital stock or re-dividing the shares), the Lieutenant-Governor in council may by supplementary letters patent confirm the by-law . . . and thereupon from the date of the supplementary letters patent the shares shall be re-divided or the capital stock of the company shall be and remain increased or decreased as the case may be to the amount and in the manner and subject to the conditions