

GUARDIAN ASSURANCE CO., LIMITED, WINS CASE.

Summary of Judgment of the Court of Appeal, British Columbia, in the Case of the Guardian Assurance Company, Limited, Plaintiff-Appellant, and Garrett, Superintendent of Insurance, and A. S. Matthew, Defendant-Respondents.

The Plaintiff-Appellant is a British company which has had existence since 1821, and has been continuously in business ever since that time as a fire insurance company, and is world-wide known under the name of "The Guardian Assurance Company, Limited." It has done business in the Province of British Columbia for the last twenty-five years, has a license under the Insurance Act, 1910 (Canada), and is authorized to do business in British Columbia under the "British Columbia Fire Insurance Act." The Respondent, Matthew, applied to the Superintendent of Insurance for British Columbia for a license under the "British Columbia Fire Insurance Act" for a company incorporated in the State of Utah under the name of "The Guardian Fire Insurance Company." This latter company is without a license under the Insurance Act, 1910 (Canada).

The Plaintiff-Appellant brought action against the British Columbia Superintendent of Insurance and the said Matthew to restrain the latter from applying for, and the said Superintendent of Insurance from issuing a license to the Guardian Fire Insurance Company (the Utah Company) to do business in British Columbia on the ground of the similarity of the Utah Company's name to that of the Plaintiff-Appellant.

The action was tried before Clement, J., and was dismissed by him on the 26th of June, 1917.

An appeal was taken from this judgment by the Plaintiff-Appellant (the English Company), and judgment was rendered by the Chief Justice of the British Columbia Court of Appeal, and Judges Martin and McPhillips on the 2nd of April, 1918. The Appellate Court unanimously allowed the appeal, and did order that the Respondent, Matthew, be perpetually restrained from applying to the Superintendent of Insurance of British Columbia for a license under the Act of that province for any company under the name of the Guardian Fire Insurance Company or any other name likely to mislead or deceive the public into the belief that the company being licensed is the same as the Guardian Assurance Company, Limited (the English Company), and the Superintendent of Insurance for British Columbia was perpetually restrained from granting any such application. Further, the Respondent, Matthew, was perpetually restrained from issuing or publishing advertisements, circulars or prospectuses representing that a company is to be licensed or has been licensed pursuant to the British Columbia Fire Insurance Act under the name of the Guardian Fire Insurance Company or any such other name likely to mislead or deceive the public

as aforesaid and from commencing or carrying on any business under the name of the Guardian Fire Insurance Company or other similar name.

The costs of the action and the appeal were adjudged against the Respondent, Matthew.

The Judges of the Court of Appeal held that when circumstances point to an intention on the part of a company to do business under a name which might easily be mistaken for the name of an existing company doing the same class of business and thereby deceiving the public, the Court will at once interfere; it will not wait until the company actually commences to do such business, if its conduct be such as to make it reasonably certain that what is sought to be restrained is in furtherance of a plan to carry on such business.

BRITISH CROWN ASSURANCE CORPORATION.

On the occasion of the 11th annual meeting of the British Crown Assurance Corporation, held in Glasgow last month, the Right Hon. J. Parker Smith (Chairman of the Company) referring to the Canadian business, said: "Business in all departments at home had been maintained at about a level, the expansion being mostly in Canada, where under our able and energetic young manager, Mr. J. H. Riddel, whom we appointed a year ago, the results have been uniformly good, and the future is very promising. Until now and particularly last year, it will be remembered our loss experience in Canada was not so favourable."

The British Crown are now operating under a Dominion license in Canada, and the business has already shown considerable expansion, the net fire premiums were, last year, increased to nearly \$230,000 with a much improved loss ratio compared with previous years, the ratio being 55.06 per cent.

The annual statement reveals a very much improved condition of the affairs of the British Crown, the net loss ratio of the fire department was reduced to 41.5 per cent. a most satisfactory result compared with the previous year when the loss ratio was 15 per cent. higher. The expense ratio at 35 per cent. leaves a very satisfactory trading balance of nearly 24 per cent. The Company is gradually establishing a desirable connection and a good reputation for itself throughout Canada. During the past 18 months the shares of the Company have appreciated in value considerably. In 1916 the shares were quoted on the London market at eight shillings and sixpence per share of £2-stg. paid up. The latest quotation to hand being nearly £2-stg. This rapid rise might suggest amalgamation with one or other of the large Composite offices.

In the United States where the profiteering is going on the same as in Canada, someone suggested that the national song "Yankee Doodle" should be changed to "Yank The Boodle."