

is nothing in the special Act incorporating the defendants, 4 Edw. VII. ch. 96, or in the sections of the Dominion Companies Clauses Act, R.S.C. 1886 ch. 118, which are declared applicable to the defendant company, similar to the provisions contained in the Imperial Act 8 & 9 Vict. ch. 16, amended by various other Acts, requiring the defendants to deliver to a shareholder a certificate of proprietorship which is to be admitted in all Courts as *prima facie* evidence of the title of the person named in it.

Nor, as far as appears, had the directors availed themselves of the power enabling them to regulate by by-law the issue and registration of certificates of stock. And, so far as shewn, neither by statute nor by by-law has a certificate of shares any special force or efficacy attached to it. Under the Imperial Act a certificate of shares is not a title to shares. It is nothing more than *prima facie* evidence of title. . . .

[Reference to *Simm v. Anglo-American Telegraph Co.*, 5 Q.B.D. 188; *North West Electric Co. v. Walsh*, 29 S.C.R. 33, 50.]

No bargain or agreement between the plaintiff and defendants whereby the defendants became bound to hand over to the plaintiff any number of fully paid-up shares, or to recognise him as the owner or holder thereof, has been shewn; in fact, there was no power in the provisional directors to enter into or carry out any such bargain.

It is not even shewn that any person acting under assumed authority from the defendants made such an agreement on their behalf.

It is, perhaps, unfortunate for the plaintiff that the exact position of Mr. J. K. Kerr in the negotiations which apparently led to the consent judgment whereby the plaintiff's action against the present defendants and J. H. Ostrom was dismissed without costs, was not fully shewn. Mr. Bicknell was under the impression that Mr. Kerr was acting on behalf of the present defendants; while Mr. D. C. Ross was apparently under the impression, derived from his client, Ostrom, that Mr. Kerr was acting for the latter. And Mr. Kerr's letter of the 6th March, 1906, to Mr. Bicknell, and his subsequent telegram of the 2nd May, are not wholly inconsistent with either view. It does not appear that Mr. Wilson, who was the solicitor and counsel for the defendants, was ever displaced; and it is certain that he refused to enter into any agreement on behalf of the defendants, except to waive their claim to costs of the action, and he so notified the plaintiff's solicitors.