

negative provision that no company shall use its funds in acquiring shares, unless authorised by a by-law, is changed into a positive one that this company may do so if so authorised, and, if such a by-law is passed, such an acquisition becomes part of the ordinary business and objects of the company. Were it not for the reference in the letters patent to sec. 70, it would seem that a by-law would be unnecessary, the authority of the letters patent taking its place.

I must, upon the evidence here, take it as proven that no by-law was in fact passed. But I also find that the Distributors Co. had no knowledge of the non-existence of a by-law, and they believed that Locke had authority to act for and bind his company.

When the papers were signed by him, according to the testimony of Mulholland, which I accept, though in a manner contradicted by Locke, the latter was told that the agreements would have to be approved of by the directors of the Distributors Co., and he replied that he did not have that sort of nonsense, but signed them himself. His statement of his powers is not controverted in any way by the minute book or by-laws produced. He is vice-president and manager. He and his brother, who was not called as a witness, are resident in Winnipeg, and the others in Minnesota. The whole business seems to be left to his control. Only one business transaction is referred to in the minute book during five years. The directors were to have held quarterly meetings, but "no quorum" was the most frequent entry when an entry appears. So far as the book shews, directors did not direct. It throws no light whatever on the business of the company. It is proved that a business was purchased, lands were bought, a factory, involving outlay of \$200,000, established, large purchases of goods made, as much as \$150,000 at once, and not a minute of it at any directors' meeting. The by-laws give no definition of his duties or powers and place no restriction upon him. The inference is fairly that Locke was allowed by his fellow-directors practically unlimited powers. His instructions, as he says, were to make money. A by-law, No. 17, declared that the officers were to perform the duties provided for them by the directors by resolution from time to time. No such resolution appears in the minute book, and, if there were resolutions, they seem to have been verbal. Locke says his instructions were verbal.

The Joint Stock Companies Act, sec. 30, gives the directors power to administer the company's affairs, make or cause to be made any contract which the company may by law enter into, and make by-laws to regulate, inter alia, the duties of all officers and the conduct in all other particulars of the company's affairs. Section 62 (now sec. 64) declares that every contract, agreement, engagement, or bargain made on behalf of the company by any agent, officer, or