

pay in 10 equal payments of 10 per cent. each, the first payment to be made in one month from the date of the subscription.

If therefore the company had on 2nd January, 1904, any stock to sell, this document is an absolute contract to take the 5 shares for which defendant subscribed and agreed to become a shareholder, and it was not necessary that the company should make an allotment of the shares; nor was it necessary that calls should be made, as he waived his right thereto and agreed to pay for the shares in 10 equal monthly instalments from the date of the subscription.

Section 21 of the Act provides that the capital of the company is increased and the shares of the company shall be re-divided as from the date of the supplementary letters patent. As defendant became a subscriber on 4th January, 1904, which was prior to either of the by-laws being assented to by the stockholders, and three months prior to the supplementary letters patent being issued, the company had no stock to sell.

Action dismissed with costs.