

injunction and certain declarations as to the acts of the directors and shares allotted to them, as appears in the judgment.

A. R. Bartlett, Windsor, for plaintiffs.

A. St. G. Ellis, Windsor, for defendants.

RIDDELL, J.:—The defendant company is incorporated under the Ontario Companies Act, and the other defendants are the de facto directors. The plaintiff Thorpe was the holder of over 14,000 of the shares of the company, but, by an interim order made in an action brought against him by the company, he had been restrained from voting upon them at any meeting of the company. The action came on for trial before Anglin, J., 29th and 30th April, 1907, and that learned Judge, in a judgment delivered 9th May, 1907 (9 O. W. R. 942), found in favour of Thorpe. Then, by a document dated 15th May, 4 of the present plaintiffs (including Thorpe) and another requested Thorpe, who was president of the company, to call a general meeting:—

“1. To elect directors of the said company in the place of the present directors, whose term of office has expired.

“2. To amend the by-laws in such manner as the shareholders may think proper.”

“3. To transact such business as might properly come before the annual meeting of the shareholders of the company.”

This requisition, it was asserted at the trial without contradiction, was got up by Thorpe himself.

Thereupon a call for a general meeting of the company was sent out by Thorpe, and the call expressed that the meeting was called pursuant to the said requisition, and that it “is for the transaction of the following business”—setting out 1, 2, and 3 as above.

The meeting was called for 29th May, and was on that day, as it appears, adjourned till 5th June. No objection is taken to the manner of calling the meeting, nor is it alleged that, had it not been for the injunction which it was believed existed restraining Thorpe from voting upon his stock, there could be any complaint.

Anglin, J., having decided in favour of Thorpe, it appears that the judgment had not been actually taken out by 5th June—and at all events notice of appeal had been served. I may say incidentally that this appeal was dismissed by