Ce serait donc ouvrir la porte à la fraude et à la ruine de nombreux actionnaires et des créanciers de bonne foi.

Et remarquons que les Sociétés sont frappées de cette incapacité comme fin de leur association et par conséquent comme moyens.

La loi donc ne leur permet aucune telle transaction, le but de l'association ne l'exige pas, la raison s'y oppose et l'équité la leur défend impérieusement.

Donc elles ne peuvent le faire, et c'est d'ailleurs une théorie parfaitement assise en Angleterre—et consacrée par la Cour de Chancellerie, le 3 mai 1870—et où il fut jugé : In re London, Hambourg and Continental Exchange Bank and Zuluetas, claim. " Unless the memorandum and articles of association of a company contain in plain terms an express power enabling the company to purchase their own shares, such purchase is *ultra vires*, although the company may be empowered to deal in shares of joint stock companies generally."

Et dit Sir G. M. Giffard L. J. " Unless there is in plain terms a direct authority to purchase their own shares, it is clear, in point of law, and I have no hesitation in saying it is clearly understood among all men of business who give their mind to the subject that they cannot do so. There must be a clear and distinct power for that purpose." Law Reports. 6. Chancery, p. 444 et 450.

Brice, *Ultra vires*, page 875, embrasse cette opinion appuyée sur la décision intervenue dans la cause de Dodge vs. Woolsey qu'il cite : " It is now no longer doubted either in England or in United States, that Courts of Equity or both have jurisdiction over corporation, at the instance of one or more of their members to apply preventive remedies by injonction to restrain those who administer them from doing acts which would amount to a violation of charter, or to prevent any misapplication of their capitals or profits which might result in lessening the dividend of stockholder, or the value of their shares, as either may be protected by the franchise of a corporation, if the acts intended to be done create what is in the law denominated a breach of trust."