It is difficult to understand readily all the representations made by the old company in selling their stock. It was euphemistically stated that the holders of the $50 prepaid shares could leave their dividends to the credit of these shares and "thus hasten maturity." The dividends alone would of course in time, if left, pay the additional $50 a share—but the plaintiff very naturally preferred to take her dividends in money. The plaintiff must have understood that whether she would get any more or not—would depend upon what the net profits would be—and that would depend upon expenses of management, losses in the business, etc.

I am not able to find any promise express or implied on the part of the company, that the money paid in on these shares would be kept separate and profits made on that money appropriated, and credited to these shares; no company would undertake such a task.

Even if the old company had not been merged in the new—if it had continued to do business in its own name, and under the old act—the plaintiff, upon the facts disclosed would not be entitled to have an account for the purpose mentioned. There being nothing in the contract to compel the company to set aside a part of the gross earnings—and put same to credit of plaintiff's shares—the case is governed by *Bain* v. *Aetna*, 21 O. R. 233.

The old company carried on business down to the 27th June, 1900. On that day, all its assets were, with the consent of all its shareholders including the plaintiff, conveyed and transferred to the defendants. By the act incorporating defendants, all the shareholders of the old company became shareholders in the defendant company. On the 3rd March, 1902, the directors of defendant company passed a new by-law in regard to the stock of the company. This by-law was approved and confirmed by the shareholders at their meeting on the 5th March, 1902. A by-law was also passed and confirmed authorising the creation of a reserve fund. The by-law in regard to stock dealt with stock already issued and that to be issued—dividing it into 2 classes—permanent and terminating. Permanent was subdivided into (1) fully paid shares of $100 each (2) fully paid ordinary shares of $100 each, and (3) part paid ordinary shares of the par value of $100, issuable at $50 per share payable in advance the holders of which shall be entitled to