gable rivers, *of taking tolls and rates of fares fixed by themselves, without control,* are, with others, a material part of the property leased. These cannot be leased or alienated without the consent of the State." And the Court decided that the lease was null, and the action properly brought by a shareholder. And Brice, p 128, says:—"The corporation have the right to alienate; but the alienation *must be in the ordinary course,* and for the purpose of the corporate operations;" and he lays it down as principle that a corporation of a public nature may not so deal with its property as to incapacitate itself from performing its public duties. And the rule applies to strictly private corporations in this sense, that the agreement is *ultra vires* if some of the corporators object. (Brice, p. 130.)

I am, therefore, of opinion that the deed of agreement between the parties is *ultra vires*, and must consequently be set aside. For it is not the name that may be given to a deed which should determine its nature, and the more care has been taken to disguise the effects the more scrupulously should the courts look at the object and determine the consequences. Those who prepared the agreement between the parties in this case probably had before them the agreement questioned in the case of Hinch vs. The Birkenhead, &c., Railway Company, 13 Eng. Law and Eq. Rep., p. 506. Care has been taken to avoid certain clauses which seemed most open to objection, (*e.g.*, the Great Northwestern has been given the right to collect charges in the name of the Montreal Telegraph Company). But the effect and the result of the agreement are similar, and the judgment should be the same.

It has been said that it is in the evident interest of the shareholders of the company that the agreement should be carried out. It is possible. But besides the interest of the shareholders there is that of the public; and if Parliament had wished to give a monopoly to this company to enrich its shareholders at the expense of the public, it would not have granted a charter to the Dominion Company, whose consent has brought about the agreement in question. Besides, the company has not so much to complain of. Its shareholders have received as *bonus* a quarter of the amount of their stock, and good dividends on an augmented capital of two millions. If Parliament thought fit to grant a charter to a second telegraph company, it was because it believed that competition would be for the public advantage. It would be a strange thing to suppose that the State would have created a second corporation to permit them to be fused in a third. Moreover, last session the company endeavored to obtain the powers which it deemed necessary to make the agreement in question. It considered, therefore, that it did not possess these powers. Parliament refused them; therefore, it considered that the company did not possess them, and that to make this agreement, *i.e.*, to let its lines, etc., they were necessary. I cannot give a better interpretation of the law than that which the company itself has given.

There only remains the objection urged by the defence, that the plaintiff is only a *prête-nom*—a tool in the hands of others, and that he is without interest. In the first place it is proved that the plaintiff is the owner of one share since 19th June, 1881, and that he acquired 50 others on the 17th August, the date of the agreement. It is very true that the plaintiff admits he is acting in concert with others (who are proved to be shareholders of the company). But even if they were outsiders, the plaintiff would be none the less a shareholder, and whether he be the holder of one share or of a thousand, what is the difference? Is the interest of a stockholder measured by the amount of his stock? His pecuniary interest may be less considerable, but his legal interest is the same. It may be true that the agreement in question is more profitable, pecuniarily to the shareholders than that the company should continue to work the lines; it may be true that the shares will fall in the market if the agreement is annulled. That is the opinion of Mr. Crawford, a large shareholder, who has been examined as a witness. But the contrary may also prove to be true. There are many surprises in all these transactions. But what has that to do with the legal interest of the plaintiff? He has a right, and he is exercising it. As to his pecuniary interest, he is master of his own acts, and nobody has any right to interfere. If the deed is illegal, the majority cannot bind the minority. I have so held already in a case against the Banque Ville Marie. And if the minority may complain why not a single shareholder? It has been so held in the case of Beman vs. Rufford, 20 L. & Equity Rep. p. 544. Lord Cranworth observed: "Therefore it is that in this, as in many other cases, one shareholder may file a bill on behalf of himself and others; although at a meeting of the company a great many of the shareholders, even the majority, may say that they have sanctioned a different course."

The agreement is consequently declared *ultra vires* and is set aside; The Montreal Telegraph Company is ordered to resume possession of its lines and of all the property transferred to the other defendants, and the Great Northwestern Company is enjoined from any longer using the lines or property illegally transferred to it, and is ordered to re-convey the same to the Montreal Telegraph Company, and also to account for all monies which it may have received for telegraph messages or otherwise under the agreement in question, and the intervention is dismissed with costs.

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