and that it was paid up by commission for his services, and that he earned his salary as manager by his efforts to induce certain milkmen to go upon the board and to advance the money necessary to enable the company to begin business.

The appeal was heard by a Divisional Court composed of STREET, J., BRITTON, J.

J. B. O'Brian, for defendants.

J. M. Godfrey, for plaintiff.

STREET, J.:—The plaintiff is not entitled to recover upon a contract with the company, because no by-law for his appointment as manager of the company was passed, and no contract was made with him under the seal of the company. The Ontario Companies Act, R. S. O. 1897 ch. 191, sec. 47, contemplates that such appointment should be made by by-law, and, apart from the statute, whatever latitude may be allowed to trading corporations in the manner of appointment of mere servants, or in the case of casual or temporary hirings, appointments of an important character, such as that of the manager of a company, in order to be binding must be under seal: Re Ontario Express Co., 25 O. R. 587; Tunston v. Imperial Gaslight Co., 3 B. & Ad. 125, 132; Church v. Imperial Gas. Co., 6 A. & E. 861; Young v. Leamington, 8 App. Cas. 517; Lindley on Companies, 6th ed., p. 269 *et seq.*

The plaintiff is further prevented from recovering by the effect of sec. 48 of R. S. O. ch. 191, which requires a by-law for the payment of a director—and plaintiff was a director—to be confirmed by a general meeting. This section requires the sanction of the shareholders as a condition precedent to the validity of every payment voted by directors to any one or more of themselves, whether under the guise of fees for their attendance at board meetings or for the performance of any other services for the company. . . . The section should be given a broad and wholesome interpretation, and should be held wide enough to prevent a president and board of directors from voting to themselves or to any one or more of themselves any remuneration whatever for any services rendered to the company without the authority of a general meeting. Dictum in Re Ontario Express Co., supra, as to this, not followed.

BRITTON, J.:—There was no properly authorized contract under the seal of the corporation, and this is not a case in which plaintiff can succeed upon an executed consideration. The plaintiff as promoter was endeavouring to enable the company to become a going concern. That was all he