Allotment is said to have been made at the meeting of the 2nd April, 1907, by the board, then consisting of three members. . . There was in fact no by-law fixing the board of directors when the first election was held. Even if two directors can be said to have been qualified, not having paid for their stock, Nutter was not a shareholder elected, and had no qualification as required by sec. 75 of the Companies Act, and I think it quite clear that what took place in regard to allotting him 500 shares of the stock . . . was wholly illegal and void. . . . Nutter's qualification as director is entered in the minutes as being "subject to his subscribing for stock," and he signed no application for stock until six weeks or so after his election. See In re Alma Spinning Co., Bottomley's Case, 16 Ch. D. 681; Toronto Brewing and Malting Co. v. Blake, 2 O. R. 175.

I am strongly inclined to think that the objection that the board was never validly constituted, because it required to consist of five members, is well taken. . . .

Section 46 of the Companies Act provides that stock not allotted by letters patent shall be allotted at such times and in such manner as the directors by by-law shall prescribe. No by-law . . . was ever in fact passed for that purpose. . . .

No notice of allotment—if any such there was—was ever in fact sent out to Sorgius or Bryant.

I agree with the learned Master that the liquidator's application to have these men placed on the list of contributories must be refused.

The Master thinks that the liquidator was doing his duty in having this matter fully investigated, and in this I also agree with him. The letters . . . were most improper, and could only have been intended for the purpose of procuring their signatures for an improper purpose, namely, to induce others to subscribe for stock on the supposition that they had subscribed for a large amount. While dismissing the appeal, I do not think the respondents should have any costs either of this appeal or before the Master.

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BRITTON, J. JANUARY 24TH, 1910.

## F. J. CASTLE CO. LIMITED v. BAIRD.

*Partnership—Holding out—Estoppel—Joint Liability—Judgment against one Partner—Election.*

Action by a firm of wholesale grocers against R. Baird and one Neelin, doing business as partners under the name of "R. Baird,"