

priving the defendants of their rights of possession of this stock which they have held with his knowledge during this period and doubtless voted upon. I do not prejudice plaintiff's rights, I am not in a position to decide them on the single deposition of Mr. Gagnon, but it is my duty to use a wise discretion as to whether this interim order should be made, which deprives parties of a possession and enjoyment which they have had undisturbed with the knowledge of plaintiff so far as the evidence goes. See Kerr, *Injunctions*, p. 16; pp. 482, 483, [551, 552]. I would further remark on the complaint of Mr. Trenholme that the company did an illegal act in taking the mortgage from Kay, that the transaction was not the lending of money which the charter forbade where the borrower was a director or shareholder. It was rather the taking of security from a debtor who was unable to pay, and the transfer of stock from Kay was probably commendable for the same reason. I would here emphasize a remark of Mr. Kerr just now read, that in determining the question, the Court looks to the peculiar circumstances of each case, and will, as a general rule, adopt that course which is most for the advantage of the whole body of the shareholders. A high French authority referring to these interim proceedings (1st vol., *Bonjean*, 2), says that the administration of justice in France is more repressive than preventive. What do the equities here demand? If something is done at the meeting to-day by which a director is elected by a vote which should not have been cast for him, it will be easy and very summary for a *quo warranto* to give redress. I do not think the case now before the court, demands its interference by injunction.

Of course, I say nothing as to the rights of the petitioners in the action itself. I see here the possession of the defendants at any rate since the 31st December, 1882, to the knowledge of petitioner. Let the position of the parties remain as it is until adjudication unless some other cause of disturbance arise. Injunction refused, costs reserved.

N. W. Trenholme and A. W. Atwater, for petitioner.

J. J. McLaren, L. N. Benjamin and C. A. Geoffrion, for defendants.

SUPERIOR COURT.

Before TORRANCE, J.

MONTREAL, February 11, 1884.

BAXTER v. THE UNION BANK OF LOWER CANADA.

Service of Summons—Joint Stock Company.

Service of summons on a Bank or other joint stock company should be made at its chief place of business.

PER CURIAM. The question here was the merits of an exception *à la forme*.

The defendant had been served at its branch office in Montreal upon its agent, to answer a claim arising out of a transaction there. It objected that it should have been served at Quebec, even to answer in Montreal.

By its charter, 29 Vic., c. 75, s. 17: "The 'chief place or seat of business of the Bank shall be in the city of Quebec, but the directors may open and establish in other cities, towns and places in this Province, branches or offices of discount and deposit of the said Bank,' &c. By C. C. P. 61, 'Service upon a joint stock company may be made at its office, speaking to a person employed in such office, or elsewhere upon its president, secretary or agent.' By C. C. P. 63, 'Service upon a body corporate is made in the manner provided by its charter, and in the absence of such provision, in the manner prescribed in the two preceding articles.' The codifiers on C. C. P. 61, refer to 23 V. c. 31, an act respecting the Judicial Incorporation of joint stock companies for certain purposes. S. 55 of this act says, 'Service of all manner of summons or writ whatsoever upon the company may be made by leaving a copy thereof at the office or chief place of business of the company, with any grown person in charge thereof, or elsewhere with the president or secretary thereof, or if the company have no office or chief place of business,' &c.

It is plain that the operations of the Bank outside of Quebec are limited to discounts and deposits, and it seems reasonable that a matter of such importance as a suit should at once be brought under the notice of the chief authorities who are at Quebec. That can best be done by serving them at Quebec.