

At 11 a.m. of the same day the directors met, organized the permanent board, and passed, amongst others, the following resolutions: "that James T. Benor be elected managing director of the company;" and "that the salary of the managing director and the secretary-treasurer until the company is in operation be fixed at \$150 each per month."

Neither of these resolutions was ever confirmed at a general meeting of the company, and indeed no general meeting of the company was ever held thereafter. But on 5th July the following document was signed by all the shareholders: "We, the undersigned, being all the shareholders of Canada Mail Orders Limited, hereby confirm the minutes of the first shareholders' meeting of the company held . . . Tuesday the 4th day of July, 1905."

At the first meeting of the permanent directors it was arranged that Benor should devote his time for the present to selling the preference stock of the company (with a bonus of the common stock), and, as the money to be paid in on the stock sold was to be placed at once in the bank, it was arranged that Benor should advance money for expenses and commissions, etc., on such sale in the meantime. He had no money of his own, and accordingly borrowed largely from his brother, the plaintiff, for that purpose. Benor undoubtedly made every effort to effect sales, and used effectively the names of the directors in doing so. He is charged with making misrepresentations in his endeavours to effect sales. I do not find that to be the case. But, as it may become material to consider this in actions brought by others, this judgment will be without prejudice to any action that any one alleging himself to be deceived may have against Benor. In such actions further evidence may, perhaps, be adduced. . . .

Many applications for stock were received, and shares were allotted to those subscribing. I find as a fact that Benor did not subscribe for stock in the company, but that he did act as director. By-law No. 13, drawn up by him or prepared with his cognizance and approval, provides that "any shareholder who holds 100 fully paid up shares may be elected a director." At the meeting of the provisional directors a resolution was passed reciting that Benor had spent time and money in gathering information, that he had