

et au lieu convenus dans le dit acte, et qu'il n'a payé qu'une année d'intérêt, savoir, celle finissant au 13 février 1879 ;

" Considérant que la dite créancière est décédée dans le courant de mai 1879, et que les défendeurs sont ses représentants ; mais que le fait de son décès n'a pas pu avoir l'effet de changer la convention des parties que le paiement serait effectué au lieu déterminé par cette convention qui fait la loi des parties ;

" Considérant qu'il est prouvé que Félix Lussier, l'un des défendeurs et héritiers de la dite créancière Cordélia Lussier demeurait encore, au temps de l'institution de la poursuite au lieu où le paiement devait se faire ;

" Considérant que le demandeur n'a pas prouvé avoir fait des offres réelles au lieu convenu pour le paiement, et qu'il n'a pas assigné les défendeurs à venir y recevoir le paiement de leur créance, mais qu'il les a assignés à venir le recevoir ailleurs qu'au lieu convenu, c'est-à-dire au Greffe de cette Cour, où ils ne sont pas tenus de se rendre pour recevoir leur argent ;

" Considérant que pour ceux des défendeurs dont le domicile est en dehors de la Province, le demandeur ne s'est même pas prévalu de l'avantage, que la loi qui donnait de déposer et consigner entre les mains du Trésorier de la Province, et que son action est mal fondée, la cour l'en déboute avec dépens distraits à Maitres Barnard, Beauchamp & Barnard, avocats des défendeurs ; sauf au dit demandeur à se pourvoir." *

Pelletier & Jodoin, pour le demandeur.

Barnard, Beauchamp & Barnard, pour les défendeurs.

(J.J.B.)

SUPERIOR COURT.

MONTREAL, February 7, 1884.

Before TORRANCE, J.

GILMAN v. ROBERTSON et al.

*Injunction to restrain from voting on shares—
Discretion of Court.*

In determining an application by a shareholder for an injunction, the Court will look to the circumstances of the case, and adopt the course which is most for the advantage of the whole body of shareholders. So, where

a shareholder asked for an interim order to restrain persons from voting on certain shares, and it appeared that the shares had been held by the defendants for more than a year, to the knowledge of the petitioner, an injunction was refused, more especially as the petitioner had a remedy by quo warranto if he were wronged by an illegal vote.

This was an application for an injunction. Plaintiff had instituted an action to have 338 shares of stock in the Royal Canadian Insurance Company, transferred by Kay to Robertson in trust on the 31st December, 1881, and by the latter to Arthur Gagnon on the 30th December, 1882, and by said Gagnon on said last mentioned date to said defendants and others, declared to have still due payable and unpaid arrears of calls thereon which were payable before any of said transfers were made, and to have defendants as transferees of said stock with knowledge of the facts, declared, *inter alia*, to be shareholders in arrears of calls on stock and not entitled to vote. A meeting of shareholders was called for 7th February, and it was asked from the Court that an order go enjoining defendants not to vote on the stock held by them, or at any rate on the 338 shares derived from Kay. The evidence of Mr. Gagnon shows that the transfer from Kay to Robertson was without money consideration. The consideration was that Robertson should hold until the shares should realize so much on account of interest. Robertson took them in trust. They were afterwards transferred by him to Gagnon for \$15 per share, and by him transferred to the defendants on 31st December, 1882. These were all directors before the transfer from Kay and cognizant of the transfer from him, except Benjamin Ross and Sise. Plaintiff also knew of the nature of the transfer from Kay to Robertson at or about the time it was made, and approved of it. He also knew of the subsequent transfers.

PER CURIAM. The last transfers were made on the 31st December, 1882, more than a year ago. That is to say, that plaintiff has been quiescent upwards of a year and now beginning his action, which may or may not be well founded, for we have still to discuss the merits, he asks for an interim injunction de-

* Confirmed in Review, 31 Jan., 1883.