

foreign corporation aggregate carrying on business in Ontario ought to have been held to be "within Ontario" within the meaning of Rule 935; probably the decision of the Court of Appeal was not before the Divisional Court, or it might have come to a different conclusion.

### THE FIDUCIARY RELATION OF DIRECTORS TO SHAREHOLDERS.

A late writer on Joint Stock Companies says: "In America the cases involving a breach of trust by directors arise generally out of the management of corporations, and not in their formation. These cases frequently involve colossal transactions, and exhibit a scope, grasp, and ability for management and manipulation that excite the stockholder's admiration fully as much as his indignation. Corporations become insolvent, and stockholders lose their investments, while individuals become millionaires. Illegitimate gains are secured, and enormous fortunes are amassed, by the few at the expense of the defrauded, but generally helpless, shareholders. The expense, difficulties, and delays of litigation and the fact that the results of even a successful suit belong to the corporation and not to the stockholder who sues, all combine to baffle investigation and exposure, to discourage the stockholders, and to encourage and protect the parties guilty of the wrong."

Fortunately, for the reputation of Canada, such a commentary on the actions and policy of Canadian directors cannot yet be written. The wrongdoings of directors in this country partake more of the offence of *crassa negligentia*, than *mala fides*. It may be that congenial co-conspirators have not yet been gathered around the directors' tables in the Board rooms of our corporations: or it may be that our corporate organizations have not yet called forth men of the skill, audacity and talent of the quality that could systematize into recognized methods, schemes for diverting the profits, capital, and even the existence of the corporation, to the enrichment of the directors and their secret agents, as have been produced among our neighbors in the United States, and occasionally in England.

The most striking feature of our era of modern industrial development, is the organization, power, and wealth of joint stock companies for mercantile or financial undertakings. Since the South Sea Bubble of 1720, which was so disastrous to the reputation of some of the then chief ministers of the Crown, and members of Parliament, there have been cases of bubble companies and plundering promoters. The judicial records of England and the United States supply many actual and constructive cases of frauds perpetrated by directors, promoters, and their secret agents, under which a system of jurisprudence has become recognized as a distinct branch of "Company law." That branch of the law which deals with the fiduciary relations of directors to their shareholders has been largely promulgated under what is known as the "judicial process," rather than the legislative process, of law making. It is in great measure in a