

We are of opinion that there was evidence which supports the finding that is attacked by the appellant.

The firm of Eastmure and Lightbourn was appointed general agent for the respondent for Canada in 1898. In 1904 or 1905 a company was incorporated bearing the name of Eastmure and Lightbourn, Ltd., which took over the business of the firm and subsequently acted as general agent for Canada of the respondent. The only shareholders in the company were the appellant and Lightbourn and three other persons each holding 5 shares. These three persons were nominees of the appellant and Lightbourn, and the shares were allotted to them in order to comply with the requirement of the Ontario Companies Act, that there shall be five applicants for letters patent of incorporation.

Owing to difficulties between the appellant and Lightbourn, and losses which the company met with owing, as was alleged, to the actions of Lightbourn, he withdrew from the company in the year 1907, and after that time the appellant was practically the company, though it was of course a separate entity.

Owing to these difficulties and losses having occurred, and probably fearing that if knowledge of them came to the respondent the general agency which the company had would be put an end to, the appellant went to New York and had there an interview with Mr. Woods, the president of the respondent, and it is upon what took place at this interview that the determination of the matter in issue mainly depends. The account of what took place given by Mr. Woods differs from the account given by the appellant. The testimony of Mr. Woods was corroborated by that of Mr. Chambers, the secretary of the respondent, and the trial Judge gave credit to them, preferring their testimony to that of the appellant, and found that the arrangement then made was that thereafter the appellant should be the sole general agent for Canada, of the respondent, and with that finding we agree. It is reasonably clear, we think, that although it may not have been expressed in so many words, the intention of the parties was that this change should take place. There was no reason why the appellant should have been unwilling that it should be made, but every reason in the circumstances why he should have been willing, and all the probabilities of the case are in favour of the view that it was agreed that the change should be made.