

The company was incorporated under the Dominion Companies Act by letters patent dated the 25th March, 1907, with a capital stock of \$500,000.

At the first general meeting of shareholders, held on the 2nd April, 1907, Powell and Hibbard, two of the incorporators, were present in person, and the latter held proxies from Prendergast, Posselin, and Temple, the other three incorporators. These were the only shareholders at the time. Nutter was present, and a resolution was passed electing Nutter (subject to his subscribing for stock), Prendergast, and Hibbard directors. It was then resolved that a block of 500 shares should be allotted to Nutter for his services, goodwill, etc., and that such shares should "rank secondary to stock allotted for cash consideration to the extent of an annual dividend of 10 per cent. and claim upon the company's assets."

Bryant and Sorgius on or before the 8th April, 1907, each signed a letter (dictated by Hibbard and addressed to him) in which it was stated that in the one case Bryant and in the other Sorgius had agreed to subscribe for 100 shares of stock in the company, of the par value of \$100 each, payable upon the same terms and conditions as will apply to subscribers in general—"It is understood that my name is not to appear as a subscriber or shareholder in any form whatsoever without my written consent, and that the present letter is given in confidence and to enable you to supply the assurance that the above amount of stock has been bona fide subscribed."

The minutes of a meeting of the directors held on the 8th April, 1907, at which Nutter, Prendergast, and Hibbard were present, contained an entry to the effect that \$10,000 of stock was allotted to Nutter; \$10,000 to Bryant; and \$10,000 to Sorgius.

Nutter's name was not in fact placed upon the stock list until after he had signed an application for 100 shares on the 16th May, 1907; and \$10,000 was the only sum for which he was ever placed upon the list, despite the resolution of the first meeting of shareholders as to the block of 500 shares.

Nutter, Prendergast, and Hibbard continued to act as a board of directors down to the 26th May, 1908, when the company had become insolvent.

Neither Sorgius nor Bryant ever paid anything to the company upon their alleged allotment, nor did either of them ever give the "written consent" mentioned in their letters.

Nutter never made any direct payment on his stock, nor was he ever credited by the company with any payment of any kind. He paid out for the promotion and organisation of the company, and