company, but between him and E. R. Clarkson personally. It appears as a transaction between him and the company, and must be so considered.

On 21st February, in addition to accepting Donovan's application for 30 shares—and I think that acceptance must be considered as a formal allotment of the stock to him—there was passed by the meeting by-law No. 43 . . . . with the intention of creating upon all the shares allotted to any member, a lien for any debts, liabilities, and engagements of the shareholder to the company. Whether this by-law would be effective or not in creating a lien upon shares transferred to an innocent purchaser for value, is a question that need not concern me now. I think it was binding upon plaintiff, who was at the meeting and took part in favour of the by-law, and upon defendant Donovan, in reference to the shares they held and while they held them. The certificate of Donovan was retained by the company and handed to the Bank of Hamilton as security for the payment of the note given for the shares.

Under these circumstances, I think plaintiff could not, even if assuming to sue on behalf of all the other shareholders, maintain this action.

Then the suit ought not to be permitted by an individual shareholder if he had the means of procuring redress by the corporation itself, by a suit by the corporation, if suit necessary or otherwise, if any wrong done. Here no difficulty is shewn—no reasonable time, after notice by plaintiff, was given to defendant company to act.

This is not a case of issue of stock at a discount. It was issued at par, and the question is, simply, whether, after the note was given, and before payment of the note, it could be called paid up stock. In the absence of fraud, and where the certificate is held by the company as security for the negotiable note which was accepted for the stock, I am of opinion that there was no illegality in the mere issue of the certificate for paid up shares under the circumstances shewn.

In case of non-payment of the note, if it remained unpaid in the hands of the company, defendant Donovan's liability would remain to the creditors of the company. The certificate, in such circumstances, would not be an estoppel to the creditors if Donovan did not in fact pay the note and if the note was in the hands of the company.

I am of opinion that plaintiff was not in a position to sue, and the action should be dismissed with costs.