Act do not appear to have been heretofore judicially considered. . . .

[Reference to Michie v. Erie and Huron R.W. Co., 26 C.P. 566, 576, as to the powers of provisional directors of a railway company; Monarch Life Assurance Co. v. Brophy, 14 O.L.R. 1; Re North Simcoe R.W. Co. and City of Toronto, 36 U.C.R. 101; the Bank Act, secs. 8, 11, 12, 13, 14, 16, 19.]

As regards the respective powers of provisional directors and shareholders' directors, the scheme of the Act clearly is, that the powers of provisional directors are to be strictly limited to those specifically granted for the purpose of getting the bank started as a business concern; and, except under contract with the subscribers, they have, in my opinion, no right to make or enforce payment of calls, nor, as pointed out by Mr. Justice Maclaren, in his treatise on Banking, 3rd ed., p. 20, have they any express power of excluding subscribers in default from taking part in the organisation of the bank.

For all that appears in the Act, it is assumed that the whole $250,000 shall be paid voluntarily. The only case cited as an authority for provisional directors making calls on stock was North Sydney Mining Co. v. Greener, 31 N.S.R. 41, but that case furnishes no assistance in determining the powers of provisional directors under the Bank Act. . . .

From the limited powers conferred upon the provisional directors under the Bank Act and the absence of any express authority to apply money paid by subscribers to any purpose except paying the $250,000 to the Minister, it is not unreasonable to assume that, when a petition is presented to Parliament for the incorporation of a bank, the legislature, in granting the privilege, intended only to grant the same for the purpose of enabling the petitioners (presumably men of substance) and their financial friends who, in the words of sec. 12, "desire to become shareholders," to establish a banking corporation. It cannot be assumed that the legislature intended, in passing an Act incorporating a bank, merely to furnish enterprising but impecunious promoters and their friends the means of exploiting the general public for subscriptions, with the absolute right, without consent of any one interested in the moneys paid, to deduct therefrom $10 or more per share as a reward for their enterprise, and with only an off-chance that a new banking institution may be established.

Nor can it be supposed that the legislature intended that, if $500,000 should be subscribed and $250,000 paid in, the bank