BUSINESS ASSOCIATIONS

By GLEN W. CLARK*

By far the most significant development in the Georgia law of business associations during the survey period was enactment by the legislature on May 8, 1968, of a new corporation law. The existing Georgia Code was amended by striking Title 22 on corporations in its entirety and inserting a new Title 22 in its place.[1] On the judicial side, there were a number of cases which refined interpretation of the old Title 22, and applied general principles of corporation and related fields of law to the resolution of specific controversies involving business associations.

LEGISLATION

The new Title 22, which becomes effective April 1, 1969, had its inception in a study project initiated at the University of Georgia Law School in the fall of 1965. A working group organized at Athens was advised and assisted by representatives of the Georgia Bar, officials of the state government and members of the General Assembly. These men made a thorough, in-depth analysis of the role and requirements of the corporate form of organization in modern society. They studied the corporation statutes of other states, the Model Business Corporation and the Model Nonprofit Corporation Acts of the American Bar Association[2] and the old Title 22 in terms both of the problems which have affected corporation law in general and specific problems associated with the development of corporation law in Georgia. The result is a modern statute embodying the latest and best from many sources, adapted to meet the particular needs of Georgia.

Although it is beyond the scope of this survey to review the act in detail, a few general comments are offered by way of introduction. For a more comprehensive treatment of the subject, see the May, 1968, *Georgia State Bar Journal* which contains an article by Professor Pasco M. Bowman II

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1. Ga. Laws 1968, pp. 565-826. The new Title 22, with committee notes and comments, has been published by The Harrison Company, Atlanta. For convenience, Ga. Laws 1968, citations will be followed in each instance with a reference to the appropriate section of the new code.
2. Prepared by Committee on Corporate Laws (Section of Corporation, Banking and Business Law), American Bar Ass'n; published by Joint Committee on Continuing Legal Education, American Law Institute and the American Bar Ass'n, 101 N. 33rd St., Philadelphia, Penn. 19104.

who served as reporter for the working group which drafted the legislation.[3]

In broad outline, the new Act* contains four parts, one each pertaining to business corporations, to nonprofit corporations, to corporations chartered by the Secretary of State and to miscellaneous provisions of corporation law. The first two parts, although they include provisions carried over from the old law, are new in that they represent a complete rewriting and reorganization of the old code, designed not only to modernize it but also to eliminate ambiguities resulting from its piecemeal development. Parts III and IV are reenactments of sections of the old law not affected by the revision.

Those sections of the Act which pertain to business corporations, and also those on non-profit corporations, were, as suggested above, based generally on the A.B.A. Model Acts on these subjects, but *only* generally. They are in no sense verbatim enactments of the Model Codes.

The Act adopts new terminology in some instances to bring Georgia into line with terminology accepted in other jurisdictions. For example, in the future, reference will be to "articles of incorporation" instead of to the "charter"; and the terms "shares" and "shareholders" replace the familiar "stock" and "stockholders".[4] On the other hand, a number of distinctive features of the existing law have been retained, either because provisions in the state constitution required it or because the legislature believed the old provision superior. Thus the power of incorporating business and nonprofit enterprises continues to be vested in superior court judges.[5]

A new provision of general interest concerns length of the corporate life. Georgia law has heretofore limited the existence of a corporation to thirty-five years unless renewed by amendment of the charter.[6] The new Act provides for perpetual existence except as otherwise provided in the articles of incorporation. To facilitate transition to the new rule, all corporations in existence at the time the act becomes effective will be deemed to have perpetual life. Should limited duration be desired, action will be required by the corporation to effect that result.[7]

As for foreign corporations, the option of domestication previously available to out of state corporations has been abandoned in the new law, although foreign corporations already domesticated will continue to enjoy the rights, privileges and immunities of domestic corporations.[8] Those

3. Bowman, *An Introduction to the New Georgia Corporation Law*, 4 GA. ST. B.J. 419 (1968). *See also*, *"Comparison of Features of Old and New Business Corporation Laws Relating to Domestic Corporations,"* 5 GA. ST. B.J. 13 (1968).
*Ed. Note: The new Title 22 will hereinafter be referred to as the "new act" or "new code". Accordingly, the old Title 22 will be referred to as the "old code" or "old act".
4. Ga. Laws 1968, pp. 566-67. New Code, §22-102.
5. *Id.* at p. 650. New Code, §22-803 (c).
6. GA. CODE ANN. §§22-1802 (e); 22-1871 (Rev. 1966).
7. Ga. Laws 1968, pp. 573-74. New Code, §22-202 (a) (2).
8. *Id.* at p. 722. New Code, §22-1420.

foreign corporations which have not chosen domestication on the effective date of the new law but which have complied with requirements of the old Act to do business in Georgia, will, without any action on their part, be granted the same legal status as corporations qualifying under the new rules.[9]

The new Act gives special consideration to the problems of the close corporation and a number of provisions have been included which should prove especially useful since so many Georgia corporations fall into this category. In the future, it will be possible for one man to organize a corporation—the present minimum of three will no longer be required;[10] and when a corporation has less than three shareholders it may also have less than three directors,[11] thus obviating the need to bring in outsiders to comply with the law. The new Code authorizes shareholders' agreements designed to assure compatible management in a close corporation[12] and broadens provision for the establishment of extraordinary majorities to carry a decision among shareholders.[13] Further, the potential burden of formal shareholders' and directors' meetings has been relieved in that provision is made for taking action without such meetings with the written consent of absent members.[14] Addressing another recurring problem, statutory remedies have been provided to deal with deadlock situations which sometimes occur in a close corporation. One solution entails court appointment of a provisional director to serve until the deadlock is resolved;[15] the other provides for dissolution of the corporation by the court on petition of a shareholder provided it is shown that irreparable injury is being done or threatened and that the situation cannot be remedied by appointment of a provisional director.[16]

Overall, the new Title 22 constitutes a major contribution to modernization of the law of Georgia, and its implementation will without doubt dominate the law of business associations for many years to come.

CORPORATE ENTITY

Turning to the work of the courts, a significant amount of the litigation on business associations in Georgia during the survey period has in one way or another concerned the question of corporate entity. The traditional view that the corporation is an entity, separate and distinct from its share-

9. *Id.* at p. 721. New Code, §22-1419.
10. *Id.* at p. 647. New Code, §22-801.
11. *Id.* at p. 631. New Code, §22-701 (a).
12. *Id.* at pp. 624-25. New Code, §22-611.
13. *Id.* at p. 621. New Code, §22-609.
14. *Id.* at pp. 614, 638. New Code, §§22-603 (d), 22-710.
15. *Id.* at pp. 632-33. New Code, §22-703.
16. *Id.* at pp. 701-702. New Code, §22-1317 (a) (1).

holders, directors and officers, was reiterated by the courts on several occasions, and the problem of when to pierce the corporate veil was considered in one federal case to which Georgia law applied. Other cases related indirectly to the issue of corporate entity in that they turned on the question of whether or not the signature of an official of the corporation given in an individual capacity was sufficient to bind the corporation on a contract, or in another case, on whether or not judgment could be obtained against a corporation on pleadings which left doubt that the corporation was in fact the entity charged by the petition. These latter cases overlap with the law of agency and of pleading. From the standpoint of corporation law, however, they relate to corporate entity through the common tendency they reveal to confuse the corporation as an entity with the personalities of the individuals who manage its affairs.

The federal case on corporate entity was *Maley v. Carroll*,[17] a bankruptcy proceeding arising in Georgia. The Fifth Circuit Court of Appeals there refused to pierce the corporate veil on contention of the appellant, trustee in bankruptcy for Dutch Oven Bakeries, Inc., that the corporate form had been used to avoid the prohibitions of GA. CODE ANN. section 22-1828 (d) (Rev. 1966) against redemption of its own stock under conditions which would render the corporation insolvent. According to appellant's argument, appellee had organized Dutch Oven as a sham through which to dispose of his stock in Carroll Baking Co. which he wholly owned and personally ran. The allegation was given credibility by the fact that the Carroll Baking assets were revalued when Dutch Oven acquired them and their worth increased to an amount covering the notes given for Carroll's stock plus the Carroll Baking Co. liabilities assumed by Dutch Oven. The position of appellee was that the transaction was a legitimate sale of stock. Carroll was not a stockholder in the new corporation and did not participate in its management. Carroll Baking was a going concern when Dutch Oven took it over, and the four years which elapsed before Dutch Oven went into bankruptcy was ample time for it to succeed or fail on its own. It was further contended that the upward revaluation of Carroll Baking assets was not unreasonable, a contention with which the court agreed.

The court, applying Georgia law, held that appellant had not established a basis for piercing the corporate veil. The corporate entity of Dutch Oven would not be disregarded to examine the motives of its incorporators, said the court, without a showing "of clear fraud, use of a corporation as an alter ego, infidelity of a fiduciary, purposeful avoidance of a statutory duty, or a similar species of such genera."[18]

17. 381 F.2d 147 (5th Cir. 1967).
18. *Id.* at 155.

In *Brega v. C.S.R.A. Realty Co.*,[19] the Georgia Supreme Court refused to direct specific performance of a sealed contract for the sale of land by a corporation where a vice president had signed the contract in his individual capacity. Although the body of the contract designated the corporation as seller, the signature element failed to indicate either that the contract was signed for the corporation by an agent, or that the signatory was a corporate vice-president. Pointing out that the vice-president as an individual and in his capacity as an officer of defendant corporation were "entirely separate and distinct entities,"[20] the court stated that it could not order enforcement of a contract "wherein the purported vendor agrees to sell land which belongs to another."[21] General and special demurrers were properly sustained by the trial court.

In a subsequent case,[22] however, the Georgia Court of Appeals concluded that signatures of amendments to a contract by the president of a corporation as an individual were binding on the corporation. The original contract, which was for construction of a dwelling for plaintiff, had been signed "G.E. Construction Company, by Golden Green, President"—the amendments were signed "Golden Green, Contractor." Suit was to recover the difference between the value of the house actually constructed and the value it would have had if built according to specification changes made by the amendments. The contract in this case was not under seal, and this appears to be significant in distinguishing the case from *Brega* where the rule was stressed that the signature on a sealed contract by an agent must include reference to the principal. Further, since the contested signatures related to amendments of a contract on which the corporation was concededly bound, the court had little difficulty finding that the parties intended the amendments also to bind the corporation. The holding was further supported by the fact that the corporation had undertaken performance of the contract "as thus amended" by continuing construction of the house. There was no partial performance in *Brega,* nor had the corporation received benefits under the contract.

The question of proper identification of a corporation as party defendant was considered in *Overmeyer Warehouse Co. v. Cayce & Co., Inc.*,[23] an action by a materialman to foreclose a statutory lien alleged to cover materials furnished for the improvement of realty. Plaintiff's original petition stated that the materials in question were furnished at the instance of W. J. Nixon, an individual, but this was amended after answer had been

19. 223 Ga. 724, 157 S.E.2d 738 (1967).
20. *Id.* at 726, 157 S.E.2d 738, 740 (1967).
21. *Id.* Quoted from Jolles v. Holiday Builders, Inc., 222 Ga. 358, 360, 149 S.E.2d 814, 815 (1966).
22. Cooper v. G.E. Constr. Co., 116 Ga. App. 690, 158 S.E.2d 305 (1967).
23. 116 Ga. App. 128, 157 S.E.2d 68 (1967).

filed, to strike W. J. Nixon as a party defendant and substitute therefore the W. J. Nixon Construction Co., a New York corporation. No process was served on the Nixon Construction Co., nor did the company enter an appearance at the trial. In these circumstances the court found that the Nixon Construction Co. was not properly made a party defendant and judgment could therefore not be rendered against it. Evidence introduced by plaintiff at the trial confused W. J. Nixon with the Nixon Construction Co. and introduced a third entity—the W. J. Nixon Co. All three names were used to identify the contractor in different phases of the case, but nowhere was their relationship established. The court found no liability against either of the Nixon enterprises, nor against Nixon individually inasmuch as he had been dropped as a defendant. Since recovery from the owner and his bonding company depended on liability of the contractor, the plaintiff also failed in his action against them.

Corporate Name

The problem of identification in the preceeding case was between corporate entities and an individual whose name comprised part of the corporate names. Does the result differ where confusion stems from use of an abbreviated version interchanged with the true name of a corporation? If the difference is minor and it appears that both names refer to the same corporation, the usual rule in Georgia has been to allow the action.[24] In *Southern Home Contractors, Inc. v. Royal*[25] decided in 1965, however, the Georgia Court of Appeals sustained a demurrer in a suit on open account because the petition named "Southern Home Contractors, Inc." as defendant whereas invoices attached to it showed that the items were sold to "Southern Home Contractors, Conyers, Ga." This background gives special significance to the 1967 case of *South Cobb Builder's Supply, Inc. v. Southern Concrete Products Co.*[26] On facts which were almost identical to *Southern Home Contractors, Inc. v. Royal* (the petition charged South Cobb Builder's Supply, Inc., but attached invoices did not include the abbreviation "Inc."), the Georgia Court of Appeals chose to follow the older rule as prior binding authority and because it was considered sounder. The court concluded:

> The sole question here is whether the petition with the exhibits shows that the party owing the account as shown by the exhibits

24. Wall v. First State Bank of Blakely, 86 Ga. App. 118, 70 S.E.2d 917 (1952); Williams v. Appliances, Inc., 91 Ga. App. 608, 86 S.E.2d 632 (1955).
25. 110 Ga. App. 861, 140 S.E.2d 229 (1967).
26. 116 Ga. App. 779, 159 S.E.2d 121 (1967).

> is sufficiently alleged to be the same party as is named defendant in the petition. We think that it does. . . .[27]

Misnomer cases such as the preceeding are to be distinguished from cases involving trade names. The rule is firmly established in Georgia that corporations can acquire trade names, and that they can sue and be sued in these names. A more troublesome question concerns the extent to which a corporation doing business under a trade name will be protected against infringement upon its use by another corporation.

Registration of the true corporation name with the Secretary of State has the effect of reserving it for exclusive use by the registering corporation.[28] In addition, GA. CODE ANN. Title 106 (Rev. 1956) provides for registration in the superior court of the county of legal domicile, of assumed or trade names under which a corporation may wish to conduct its business.[29] It is also recognized that a trade name can be acquired by use.[30] To what extent, then, are trade names protected against infringement? Two of the survey cases are in point.

In the first, *Dolphin Homes Corp. v. Tocomc Development Corp.*,[31] it was held that plaintiff failed to allege either that defendant's use of the name at issue would tend to injure plaintiff's business reputation or dilute the distinctive quality of the name, proof of either of which would have constituted a statutory basis for granting relief.[32] Plaintiff was promoting a real estate development under the trade name "Old National East" and asked that defendant be enjoined from using the name "Old National North". What plaintiff did allege was ". . . [T]hat the name adopted by defendants is a colorable imitation of the name used by plaintiff and that the use of it by defendants constitutes fraud and a willful and malicious attempt by said defendants to benefit from the advertising, good will and reputation of the plaintiff."[33] This was not enough to prevail against a general demurrer. The court recognized that a trade name comprised of words having a "primary, geographical or descriptive meaning of their own," might by long use and public association with the product acquire a secondary meaning warranting protection, but did not consider the petition here contained sufficient allegation that the trade name had acquired a secondary meaning with the general public.

The second case on trade names was *Multiple Listing Service, Inc. v.*

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27. *Id.* at 782, 159 S.E.2d 121, 124 (1967).
28. GA. CODE ANN. §§22-202, 22-1803, 22-1809 (Rev. 1966). *See* Rome Machine & Foundry Co. v. Davis Foundry Machine Works, 135 Ga. 17, 68 S.E. 800 (1910).
29. GA. CODE ANN. §106-301 (Rev. 1956).
30. Rome Machine & Foundry Co. v. Davis Foundry Machine Works, 135 Ga. 17, 68 S.E. 800 (1910).
31. 223 Ga. 455, 156 S.E.2d 45 (1967).
32. GA. CODE ANN. §106-115 (Rev. 1956).
33. 223 Ga. 456, 156 S.E.2d 47 (1967).

Metropolitan Multi-List, Inc.,[34] decided January 4, 1968. Here plaintiff sought to enjoin use of its registered trade names—Multiple Listing Service, and M.L.S.—by defendant corporation. The complaint alleged and the evidence disclosed that plaintiff had spent thousands of dollars promoting these names over a ten-year period, and that the public had come to associate them with the plaintiff corporation. The court held for the plaintiff on these facts, reversing a lower court decision which had refused to grant the injunction. The trade names here were found to have acquired a secondary meaning which warranted protection. Comparison of this case with *Dolphin Homes* points up the importance of alleging sufficient facts to establish a secondary meaning as a basis for exclusive appropriation of names based on words in common use. The fact of prior registration under GA. CODE ANN. section 106-301 (Rev. 1956) may have helped the plaintiff here—it is not clear from the opinion whether or not the trade name in *Dolphin Homes* had been registered.

VENUE

As in past years, questions concerning proper venue for actions involving corporations received attention from the courts during the 1967-68 survey period. In *Mavity v. First of Georgia Ins. Co.*,[35] the Georgia Court of Appeals applied corporation law in establishing venue for a tort action (libel) allegedly committed by an agent of an insurance company. The court held that the provisions of GA. CODE ANN. section 56-1201 (Rev. 1960) authorizing actions against an insurance company in any county where the company had an agent or was doing business "at the time the cause of action accrued or the contract was made out of which such action arose" applied only to cases arising on contracts of insurance. It further held that the company could be sued in tort only in (1) the county where the action originated if the corporation had an agent or place of business there at the time the action was brought, or (2) in the county of legal residence of the corporation as fixed in its charter if (but only if) the corporation at the time suit was brought had no agent or place of business in the county where the action originated. Since condition two prevailed, a general demurrer to jurisdiction in the county where the action arose was properly sustained.

The rule that removal of a corporation's principal place of doing business from the county of legal residence fixed by its charter does not defeat venue in that county was applied in a second venue case.[36] A third[37] held

34. 223 Ga. 837, 159 S.E.2d 52 (1968).
35. 115 Ga. App. 763, 156 S.E.2d 191 (1967).
36. Ace Waterproofing Co. v. Tremco Mfr. Co., Inc., 116 Ga. App. 226, 156 S.E.2d 398 (1967).

that, although jurisdiction over a domestic corporation not otherwise meeting venue requirements can be obtained by joining it as defendant with a second corporation properly subject to the court's venue, there can be no final judgment against the former unless liability is adjudicated against the latter.

PREINCORPORATION AGREEMENTS

In *Gifford v. Jackson*[38] the Court of Appeals of Georgia followed what it called the "preincorporation contract approach" as opposed to the "agency theory approach" in deciding that a promoter was personally liable on a contract with third persons made on behalf of a corporation to be formed. The decision is in accord with the general rule that a promoter is bound on such contracts absent an agreement to the contrary, but since the same result would have been reached under either theory it is interesting that the court went out of its way to explain the theory it favored. Adoption of the contract theory could have significance in connection with other problems growing out of preincorporation agreements as, for example, how and when the corporation becomes liable once it is organized, and the possibility that in some circumstances the promoter might be released from liability after the corporation comes into existence.[39]

FIDUCIARY DUTIES OF DIRECTORS

That a corporate director, although not in a strict sense a trustee, has a fiduciary relationship to the corporation is a principle recognized in all jurisdictons. *Quinn v. Forsyth*,[40] decided by the Georgia Court of Appeals in September, 1967, goes a step further. It holds that a director stands in a fiduciary relationship to stockholders as well, and specifically that he is responsible as a fiduciary to an individual stockholder from whom he has purchased shares. The director in this case had purchased his sister's interest in shares held jointly by plaintiff and the sister (plaintiff's ex-wife). He subsequently, by misrepresentation of the facts, induced plaintiff to relinquish his interest for a fraction of its true value. The court found that general demurrer to an action against the director for damages and profits had been erroneously sustained, and grounded its decision on the existence of a fiduciary relationship.

37. Byrd v. Moore Ford Co., 116 Ga. App. 292, 157 S.E.2d 41 (1967).
38. 115 Ga. App. 773, 156 S.E.2d 105 (1967).
39. *See Generally* 1 W. FLETCHER CYC. CORP. 789-848 (Perm. Ed.) (Rev. 1963); H. HENN, THE LAW OF CORPORATIONS AND OTHER BUSINESS ENTERPRISES, 142-146 (1961).
40. 116 Ga. App. 611, 158 S.E.2d 686 (1967).

The allegations warrant further elaboration: Defendant had known when the transaction was consumated that the corporation had gone public, and that extensive new markets had been developed in the United Kingdom and Europe. But he told plaintiff that there had been no change in the usually poor financial condition of the company. He blocked plaintiff's efforts to discover the truth by refusing his request to inspect the corporation books. He failed to notify plaintiff of a stockholders meeting at which the new markets were discussed.

In terms of the law on insider share trading, this decision and the precedents cited in it would seem to place Georgia among the so called "minority rule" jurisdictions which hold that ". . . [N]on-disclosure of inside information . . . constitutes a breach of . . . fiduciary duty to the stockholder."[41] However, since there were allegations of active fraud by the director, the case might well have been decided according to customary remedies for fraud, and it can therefore not be taken as strong authority on the fiduciary issue.

Another point in the case was that, although a stockholder may not blindly accept a director's representations, neither is he expected to make more than a reasonable effort to ascertain the facts for himself. Whether or not he exercised due care would be a question for the jury.

SHAREHOLDERS

J. B. McCrary Co. v. Peacock,[42] decided by the Georgia Supreme Court on July 6, 1967, is of interest in connection with business associations, although the key point in the decision concerned property law. The action was brought by the executors and trustees under the will of J. A. McCrary and sought the direction of the court as to the rights of parties in certain shares of stock. The shares in question had been subjected to a purchase option created by resolution of shareholders providing as follows: (1) that upon the death of any shareholder the corporation should for five years have the privilege of buying shares held by the deceased at a price fixed in the resolution, (2) that if the corporation did not exercise the option such shares could be purchased at the same price by other shareholders on a pro rata basis, and (3) that the heirs would not otherwise dispose of the stock for a period of five years. At the time of his death in 1953, J. A. McCrary held a vested remainder in these shares, subject to the life estate of J. B. McCrary. J. B. McCrary died in 1961. The issue then was when the five years began to run—in 1953 when J. A. McCrary died, or at the death of J. B. McCrary in 1961? The court held that since the interest

41. H. HENN, THE LAW OF CORPORATIONS AND OTHER BUSINESS ENTERPRISES, 379 (1961); *See also* 3 W. FLETCHER CYC. CORP. (Perm. Ed.) 851-61 (Rev. 1965).
42. 223 Ga. 476, 156 S.E.2d 57 (1967).

which passed to J. A. McCrary's heirs in 1953 was a transferable one, the privilege of purchasing the shares under the option became exercisable at that time and the option period started to run as of then. An oral agreement to the contrary allegedly made after J. A.'s death was held to be unenforceable under the parol evidence rule.

Two other survey cases involving shareholders dealt with various aspects of the sale of shares. In one of them, *Wade-Carry Co. v. Moseley*,[43] the question concerned transfer of plaintiff's shares on the stock record books of defendant corporation. Plaintiff had inherited the shares from his mother to whom, according to stipulated facts, the original owner had "sold, assigned, and transferred" them in the presence of a notary. The mother died before transfer was effected on the corporation's books. After her death, the original owner, alleging lack of consideration for the shares, issued a stop-transfer order on which the corporation's refusal to transfer the shares was based. The court found plaintiff entitled to the shares and ordered the transfer recorded. The word "sale" imported consideration and without a contrary showing the transaction was recognized as bona fide.

In the second case on sale of shares, *Jones v. Nash*,[44] the question was whether or not the transaction was a sale of securities within the meaning of the Georgia Securities Act.[45] If so, plaintiff, who acquired shares in a newly organized corporation as a substitute for one of the original subscribers, would be entitled to recover the purchase price since the stock was not registered as required by the act. The court decided that the transaction was a sale, notwithstanding language used by the parties which termed it a subscription.

Cases on the signature required of an officer to bind a corporation to a contract were discussed in the section on corporate entity. In general, as suggested there, the effectiveness of a signature to bind the corporation depends on a showing that the parties intended to bind it. Where such intention is clear, however, a question may exist as to the authority of the official to obligate the corporation. This point came up in *Edelmann & Co. v. Amos*,[46] decided under Georgia law by the United States District Court for the Northern District of Georgia. It was there held, over a defense claim that the vice-president lacked authority to commit the corporation as guarantor, that his signature as vice-president to a letter of guaranty written on corporate letterhead stationary was binding on the corporation. The court found that under the circumstances[47] such a contract was not extraordinary, was in the regular course of business, and that in view of a

43. 223 Ga. 474, 156 S.E.2d 64 (1967).
44. 117 Ga. App. 258, 160 S.E.2d 225 (1968).
45. GA. CODE ANN. §97-101 (f) (Rev. 1968).
46. 277 F. Supp. 105 (N.D. Ga. 1967).
47. The guaranty was in favor of a wholly owned subsidiary corporation which, because it was newly organized, would not have been extended credit without it.

by-law authorizing him to sign ordinary contracts, the vice-president had authority to execute it. Although the contract did not require ratification by shareholders, the court went on to point out that had such ratification been necessary, a blanket resolution adopted by shareholders ratifying all acts by its officers during the preceeding year would have applied.