179, appeared to be determined by the decision of a Divisional Court in Securities Development Corporation of New York v. Brethour (1911), 3 O.W.N. 250. It could scarcely be argued, in the face of that decision, that the plaintiffs in this case carried on any of their business in Ontario by causing a solicitor in Ontario to procure the defendant's execution of the acknowledgment and assignment; and, if what the solicitor did was not a carrying on of any of the company's business in Ontario (sec. 7), no license was required to enable the company to maintain the action (sec. 16).

The defendant, however, raised a broader issue—that the plaintiff company had not capacity to enter into the contract or carry on business in Ontario.

The learned Judge, after referring to the decision of Masten, J., in Weyburn Townsite Co. Limited v. Honsburger (1918), 43 O.L.R. 451, and that of the Appellate Division in the same case (1919), 15 O.W.N. 428, and Bonanza Creek Gold Mining Co. v. The King, [1916] 1 A.C. 566, said that there was nothing which bound him to hold that sec. 92 of the British North America Act did not authorise a Province to confer upon a company incorporated by it power to do, as incidental to the provincial objects for which it was incorporated, everything that this company had done in this case, viz., instruct a solicitor in another Province to procure the execution of documents such as those referred to and maintain an action such as this. The letters patent incorporating the company professed to confer upon it capacity to exercise its powers in any part of the world; and, in the absence of anything compelling the learned Judge to do so, he was not prepared to hold that it had done, or, in maintaining this action, was doing, anything which the Province of Manitoba could not or did not confer capacity to do.

There should be judgment for the plaintiffs, in the usual form, for specific performance, with costs; reference to the Local Master at London to take the account.