

therefore, it was needless to discuss the effect of s. 210; while Meredith, C.J.C.P., came to the conclusion that the real effect of s. 210 was merely to give companies the capacity of individuals so far only as might be necessary for the purpose for which they should be incorporated; and that, notwithstanding the Act, a company could not enter into contracts for purposes other than those for which they were incorporated; that the contract in question in this view was *ultra vires*, and, therefore, in his opinion the action should fail. What therefore is really the precise effect of s. 210 remains yet to be authoritatively determined. If the ruling of Lennox, J., and Ferguson, J.A., should ultimately prevail, the question of *ultra vires* could hardly ever arise upon any contract entered into by a joint stock company in Ontario, however widely it might appear to have wandered from the purpose of its incorporation. In the meantime the profession is more or less at sea as to what advice on this important question they should give to their clients. The judgment in favor of the plaintiff it is true was affirmed but not on the ground on which the Judge at the trial proceeded, but by two Judges on that ground, and by one on the ground that the charter in fact warranted the contract. If the charter warranted the contract, then the opinions of Lennox, J., and Ferguson, J.A., seem to become mere *obiter dicta*. There is a majority of Judges, however, in support of the conclusion as to the effect of s. 210, but against this is to be set the weighty opinion of the learned Chief Justice—and, as we shall presently see, there is also the opinion of Mr. Justice Masten to the same effect.

Since the decision above referred to was given, judgment has been pronounced by Mr. Justice Masten in *Weyburn Townsite Co. v. Honsberger*, 15 O.W.N. 49. In this case a company incorporated in Saskatchewan, for carrying on a real estate and brokerage business made a contract in the Province of Ontario for the sale to the defendant, a resident of the latter Province, of land in the Province of Saskatchewan, for which he gave a promissory note for part of the price, and paid money on account. The plaintiff company as vendors brought the action for specific performance of the contract by the purchaser, who set up as a defence that the contract was *ultra vires* of the plaintiff company.