

Britain, France, or Italy, in that it is, by the terms of the statute under which it is incorporated, incapable of exercising any powers or rights outside the confines of the Province, unless and until it has received ab extra the necessary power and authority, the words of sec. 16(2) are ineffective in relation to such a company, because its power and right to carry on business in Ontario arises only on the granting of the license; and the words of sec. 16 must in that regard be taken as applicable only to foreign companies created by a sovereign authority possessing plenary powers, which, except as inhibited by the Ontario statute, are entitled by comity to enter Ontario and make contracts.

In the case of an English or a French company, the license sanctions the maintaining of an action for the enforcement of a contract made in the exercise of powers which the company already possesses by virtue of the doctrine of comity; but, in the case of a Saskatchewan company, its powers in Ontario must be taken to be conferred for the first time by the license, and are a new grant by Ontario authority.

Until the license was granted by Ontario to the plaintiff company, in February, 1918, it possessed no powers or rights in respect of objects outside Saskatchewan. The Ontario license assumed to confer upon it powers and rights from the date of the license only.

It was contended for the defendant that a company incorporated by memorandum of association and certificate under the Saskatchewan Companies Act was not a common law corporation like the Bonanza Creek Gold Mining Company (see *Bonanza Creek Gold Mining Co. v. The King*, [1916] 1 A.C. 566), and possessed no capacity to apply for or receive any power or right outside of Saskatchewan.

This case appeared to fall precisely within the words of Viscount Haldane in the case referred to, at p. 584; and the plaintiff company had originally no power to apply for or accept a license to carry on business in Ontario.

It was urged, however, that all that had been changed by a Saskatchewan statute of 1917, amending the Companies Act: see 7 Geo. V. ch. 34, sec. 13*a*. (Sask.)

The learned Judge expressed no opinion on the effect of that legislation in relation to acts of the plaintiff company done after the statute was passed in 1917; but, with regard to acts done before the statute, he was of opinion that the legislation was, as against a citizen of Ontario, beyond the powers of a Provincial Legislature.

The plaintiff company's claim, therefore, failed.