

MASTEN, J., in a written judgment, said that the plaintiff company was incorporated under the Saskatchewan Companies Act, by memorandum of association dated the 23rd March, 1912. By clause 3, "the objects for which the company is established are to carry on real estate loan and general brokerage business." No limitation or extension of this power was contained in the memorandum.

On the 8th February, 1918, and not before that date, the plaintiff company procured a license under the Great Seal of the Province of Ontario, pursuant to the Extra Provincial Corporations Act, R.S.O. 1914 ch. 179, to do business in Ontario.

The negotiations which resulted in the agreement with the defendant took place in 1912, in Ontario, agents of the plaintiff company being in Ontario. The written agreement (dated the 15th October, 1912), was drawn up in Saskatchewan, executed by the plaintiff company there, and executed by the defendant in Ontario.

The learned Judge was of opinion that the plaintiff company, in respect of the agreement, carried on business in Ontario, and assumed to exercise powers and acquire rights outside of Saskatchewan.

Considering the question apart from the Ontario Extra Provincial Corporations Act and apart from the license issued thereunder, the assumed exercise by the plaintiff company of powers in Ontario and its assumed acquisition of rights against the defendant could not be recognised by this Court under the doctrine of comity. The act of the plaintiff company in coming into Ontario in 1912 and assuming to sell its lands to the defendant and to acquire rights against him was *ultra vires* at that time; and, unless aided by the license subsequently issued under the Extra Provincial Corporations Act, so remained. The defendant could not, under the doctrine of comity, have enforced a claim for specific performance against the plaintiff, and consequently the contract sued on would, apart from the license, have been unenforceable against the defendant for want of mutuality.

In so far as the license issued in 1918 conferred on the plaintiff company new powers and rights in Ontario, it purported on its face to operate from the date of its issue. Manifestly, the license was intended to confer these powers only as of its date, and the statute carried it no further. Section 16(2) must be considered as doing no more than removing, as of a time immediately preceding the commencement of the action, the disability created by sec. 7.

As a corporation incorporated by a Province of Canada differs from a company created by a sovereign authority, such as Great