

There was apparently no defence upon the merits; the contention of the defendant company, to which the Referee had given effect, was, that the guaranty was beyond its powers. The advances were either loans to Tolton or payments to the plaintiff; and, in either aspect, the defence of ultra vires was not to be regarded as fatal to recovery on the sealed instrument sued upon for the amount found due by the report. The statute should be liberally construed to carry out the legislative intent, which was also the intention of the parties, that the engagement of the company to pay should be a valid one.

The findings of fact of the Referee were in favour of the plaintiff, and the company should have leave to appeal from them, the decision of the Referee upon the statute being reversed.

Two minor items of \$125 and \$100, not passed upon by the Referee, should be allowed to the plaintiff in the account.

The Chancellor referred also to the last amendment of the Companies Act (6 Geo. V. ch. 35, sec. 6), adding sec. 210 to the Act. This greatly extends the powers of companies so that, unless otherwise expressly declared, they have from their creation the general capacity of corporations created by charter—an unrestricted corporate capacity: Palmer's Company Law, 8th ed., p. 3.

Appeal allowed with costs, and judgment to be entered for the plaintiff, with costs of action and reference, subject to the appeal for which leave is given.

SUTHERLAND, J.

JUNE 26TH, 1916.

RE PINE RIVER LIGHT AND POWER CO. LIMITED AND TOWN OF ORANGEVILLE.

Vendor and Purchaser—Agreement for Sale of Land—Application under Vendors and Purchasers Act, R.S.O. 1914 ch. 122, sec. 4—Cloud on Title—Mortgage—Validity—Scope of Application under Act.

An application by the Municipal Corporation of the Town of Orangeville, purchasers, under the Vendors and Purchasers Act, R.S.O. 1914 ch. 122, sec. 4, for an order declaring the validity of an objection to title made by the purchasers upon a contract for the sale to them by the company of their electrical power distribution system, including lands, plant, etc., in the town of Orangeville.