me at the Peterborough sittings, and was there renewed. Upon it, judgment is yet reserved.

At the trial it was proved that, in addition to the debt due to the plaintiffs, about $5,000 is due for wages for the month of March last, for which liens have been filed, and upon the liens proceedings have been taken; and that there is further indebtedness to a bank for a considerable sum. It is also shewn that another creditor has now obtained execution.

None of these debts existed at the time of the mortgage; nor at the time of the giving of the mortgage was it contemplated by any of the parties that any indebtedness should be incurred which would not at once be met. The transaction, as already found, is absolutely devoid of the faintest trace of fraud. The suggestion is that the $60,000 was really a debt of Kirkgaard to his co-adventurers, and that the company had no power to mortgage its property to secure this debt.

There is no doubt that the company possesses an existence and individuality entirely distinct from the individuality of its shareholders; yet, where a transaction is not in its nature beyond the powers of the company, and is assented to by every individual shareholder, and no fraud upon creditors is intended, the transaction cannot be regarded as ultra vires. There is no statute prohibiting the giving of a mortgage by a company. There is no statute which restricts the mortgage to be given to a present advance. The defendant company was here indebted to those three promoters to the amount of $45,000. By the arrangements made, it became freed from this indebtedness, assuming a new liability of $60,000. Incidentally it was advantaged, as a situation which meant ruin and the loss of the corporate property, was solved; new advances were secured; and a new start was made. The wisdom of the bargain made was a matter for the directors and shareholders; and the argument against the security was really based upon confusion of thought and the assumption that the Court could review the wisdom of the transaction of the company entered into.

If the matter is to be looked at in any narrower way, the mortgage has now been reduced to $41,000 and interest, by payments made, not by the company, but by Kirkgaard and his associates. As this is less than the actual debt to the three promoters at the date of the mortgage, it may well be looked at as a security for the then existing debt: Kirkgaard having in effect transferred to his associates his share of the total.

I have dealt with the facts as presented; but the plaintiffs