

of the Courts. Companies incorporated by letters patent had always been considered to be statutory companies, and the decision that they were common law companies came with a considerable shock.

The Provinces, no doubt, considered this decision a virtual victory, and in order to clinch it and to obtain what was supposed to be the greatest advantage for their companies, passed legislation to the effect that all companies provincially incorporated, whether under general or special Acts, should be considered to be common law companies. This legislation appears to have been carried through without any consideration of the difficulties which it would create. Common law companies are very well known to the profession by name. Their exact nature is, however, little known. The common law companies best known and discussed in the books and reports were municipal corporations and foreign-trading companies which had the monopoly of trading and to some extent had delegated sovereign powers. Common law companies, as the usual company incorporated in Canada, were quite unknown. It is fair to say that the method of conducting the business of common law companies was quite different from that of the Canadian company, *The Constitution and Finance of English, Scottish and Irish Joint-Stock Companies to 1720*, p. 150; Cambridge University Press, 1912. Nevertheless, without any consideration whatever of these differences of management and differences of nature, the peculiarities of common law companies were added to companies incorporated by statute.

The only case dealing with the capacity of a common law company, which was discussed, was the *Sutton Hospital* case, 10 Coke 1, and the decision there was that at common law it is an incident to a corporation to use its common seal for the purpose of binding itself to anything to which a natural person could bind himself, and to deal with its property as a natural person might deal with his own. Nothing is said about the manner in which the chartered company may bind itself or deal with its property. In fact, a company cannot deal with its property in the manner in which a natural person may. A company can bind itself only through agents, while a natural person binds himself without