

or power, under their charter, to make the note. The appellants were incorporated as a company by letters patent under the Ontario Companies Act, dated the 4th March, 1914. The object of incorporation was the carrying on of a real estate business. The promissory note was made on account of a purchase of machinery and patent rights for the manufacture of machines for pressing clothes.

At the trial, an amendment was made by which the appellants set up misrepresentation in connection with the contract of purchase. That contract was signed by the three defendants, the appellants executing by their corporate seal and the signature of their president and manager. The trial Judge found the facts against the appellants' allegation of misrepresentation.

Upon the question of *ultra vires* the trial Judge also ruled against the appellants.

Upon the appeal, the argument was confined to the question of *ultra vires*.

In view of the decision in *Bonanza Creek Gold Mining Co. v. The King*, [1916] 1 A.C. 566, and of the amendment to the Ontario Companies Act, R.S.O. 1914 ch. 178, made in 1916, by 6 Geo. V. ch. 35, sec. 6, adding sec. 210 to the principal Act, FERGUSON, J.A., was of opinion that the contract of purchase was not *ultra vires* of the appellants.

By the new section (210), it is declared "that every corporation or company heretofore or hereafter created . . . by or under any general or special Act of this Legislature, shall, unless otherwise expressly declared in the Act or instrument creating it, have, and be deemed from its creation to have had, the general capacity which the common law ordinarily attaches to corporations created by charter."

Reference to *Riche v. Ashbury Railway Carriage Co.* (1874), L.R. 9 Ex. 224, 264; *Palmer's Company Law*, 10th ed., p. 3; *Baroness Wenlock v. River Dee Co.* (1887), 36 Ch.D. 674, 685; *British South African Co. v. De Beers Consolidated Mines Limited*, [1910] 1 Ch. 354; *Diebel v. Stratford Improvement Co.* (1916), 37 O.L.R., 492, 498.

A corporation created by charter had at common law almost unlimited capacity to contract; statements in the charter defining the objects of incorporation do not take away that unlimited capacity; and even express restrictions in the charter do not take it away, but are simply treated as a declaration of the Crown's pleasure in reference to the purposes beyond which the capacity of the corporation is not to be exercised, a breach of which declaration gives the Crown a right to annul the charter.