

The appeal was heard by ARMOUR, C.J.O., OSLER, MACLENNAN, MOSS, LISTER, JJ.A.

A. B. Aylesworth, K.C., and N. F. Davidson, for appellants.

Wallace Nesbitt, K.C., for defendant company.

W. R. Riddell, K.C., and R. McKay, for individual defendants.

MACLENNAN, J.A.:—The first question on the appeal is whether the company has power to make the sale sought to be restrained. . . . The Companies Act restricts the power of a company to acquire lands to what is necessary for the carrying on of its undertaking; and the Mining Act confines it to what is necessary for the company's mining, milling, reduction, and development operations. And in neither case is there any express qualification of the power of alienation.

I am unable to see that any restriction upon the express power of alienation can be implied. The company is not limited to the purchase, for their purposes, of any particular parcel or parcels of land, except perhaps that they are confined to the district of Algoma. They might buy land for a mine and find it unsuitable, or not so suitable as other land. Why should they not have the same liberty as a private person to act from time to time as they deem to be for their interest, and to sell and buy as their interest seemed to require? It is said that the sale of this land is a sale of the company's business, and so is *ultra vires*. I do not think so. There is nothing to prevent the business being continued by the purchase of other mines, or mining lands, afterwards; and it is for the company to determine what shall be done afterwards. *Wilson v. Miers*, 10 C. B. N. S. 348, cited in the judgment below, appears to me to be a distinct and satisfactory authority on this point, and a case which I have not found doubted anywhere. I also refer to *Hovey v. Whiting*, 13 A. R. 7, and 14 S. C. R. 515.

The next ground taken by the appellants is, that a sale would be injurious to plaintiffs. The answer to that is, that the affairs of a company must be managed according to the judgment of the majority of shares, by which the directors, the executive body, are elected; and so long as what is done is legal, it cannot be prevented, or undone, merely because it may be disadvantageous to a minority of the members. It is said that defendants, who control 2,383 shares out of a total