

porated before or after the passage of the latter Act, may dispose of the whole of its undertaking. The sale referred to is not limited to sales for shares, debentures or securities of other companies carrying on a business of a similar character, but covers sales for money as well. Nevertheless, the procedure prescribed must be strictly followed.

An agreement entered into by the directors of a company for the sale of the undertaking to another company, although ratified by a resolution passed at a meeting of shareholders, is *ultra vires* and cannot be enforced in the absence of the special resolution called for by the amending Act, s. 5, as defined by s. 93 of the Companies Act.

Where the legislature gives a company express power, within certain limits, to do a special thing it is to be taken *primâ facie* to prohibit by implication any deviation from the power so given.

Mellish, K.C., Burchell, K.C., and J. L. Ralston, for plaintiff.
Rogers, K.C., and J. M. Davidson, for defendant.

Full Court.]

[Feb. 5.]

ATTORNEY GENERAL OF CANADA *v.* CITY OF SYDNEY.

Militia Act, 1886 — R.S.C. 1886, c. 41, s. 34—Militia called out in aid of civil power in case of riot—Claim against municipality—Statutory liability—Construction of statute—Words “senior officer,” “locality,” “district.”

Where a liability imposed upon a municipality is purely statutory a substantial compliance with the requirements of the statute which alone creates the liability is essential to the existence of the liability.

The Act respecting the militia and defence of Canada, R.S.C. (1886) c. 41, s. 34 made provision for the calling out of the active militia in aid of the civil power in any case in which a riot or other emergency requiring such service occurred or was anticipated as likely to occur, etc. And, further, “the senior officer of the active militia present at any locality shall call out the same or such portion thereof as he considers necessary, etc.”

The militia having been called out by the officer in command of military district No. 9, in pursuance of a requisition addressed to him for that purpose.