

until the plan, profile and book of reference of the railway proposed to be constructed thereon had been submitted to, and approved by, the Minister, and with this judgment the Privy Council (Lords Haldane and Dunedin and Sir Arthur Channell) concurred. The appeal therefore failed.

COMPANY—AGREEMENT—VALIDATING STATUTE SUBJECT TO CONDITION—NON-OBSERVANCE OF CONDITION—DEFECTIVE NOTICE OF MEETING—ACQUIESCENCE IMMATERIAL—ULTRA VIRES—DELAY.

*Pacific Coast Coal Mines v. Arbuthnot* (1917) A.C. 607. This was an action by certain shareholders of a limited company, and the company, to set aside a certain agreement made between certain shareholders and directors with the company, whereby an action against the directors, as promoters, was dismissed, and certain shares were to be surrendered in exchange at par, for debentures to be created and issued by the company, and the capital of the company was to be reduced from three to two million dollars. A private Act had been passed validating the agreement on condition that the same was adopted by a resolution passed by 75 per cent. of the shareholders present personally or by proxy at any meeting of the shareholders called for the purpose. A resolution was passed by the required majority but the notices calling the meeting omitted to state the purpose for which it was called, and the proxies of shareholders, who had no means of knowing the contents of the agreement, were used in support of the motion. The articles of association provided that in case of special business the notice calling a meeting should state its general nature. Four years later the company and two shareholders brought the present action to set aside the trust deed, and the debentures issued thereunder. It was contended that the plaintiffs by acquiescence, and by their acts and conduct, had ratified and approved the transactions sought to be impeached. The Judicial Committee of the Privy Council (Lords Haldane, Dunedin and Sumner), however, held that the agreement was originally *ultra vires*, that the Act had validated it upon condition that it should be approved by the specified majority of shareholders; and that that condition had not been validly complied with, because the calling of the meeting without notifying the shareholders of the special business to be transacted thereat, was fatal to its validity, and that subsequent acts or conduct could not make the transaction valid. The appeal was consequently allowed.