

ing the company (McClure & Langley Limited), and certain shareholders other than Langley, from proceeding with a meeting called for the 20th March, 1916, for the purpose mentioned. The plaintiffs also asked for leave to amend the writ of summons and the pleadings by stating that the plaintiffs sued on behalf of themselves and all shareholders of the company other than the defendant, and by adding the company and the other shareholders referred to as defendants. The plaintiffs also asked for a receiver.

R. B. Henderson, for the plaintiffs.

J. Tytler, K.C., for the defendant and the proposed defendants.

SUTHERLAND, J., after setting out the facts in a written opinion, said that from the material filed in opposition to the motion it appeared that the matters complained of by the plaintiff McClure had existed for several years, that that plaintiff had knowledge thereof, and had the opportunity from the annual statements and books of the company to ascertain what was being done, and that to some extent he admitted, or did not disaffirm, a part of the alleged agreement now put forward by the defendant Langley.

It would seem, the learned Judge continued, upon the facts disclosed in the material filed, that the matters complained of were such that the shareholders might well be considered to have a right to pass upon and deal with them at a meeting properly called for the purpose. It had not been made apparent that the defendant had been guilty of concealment or fraud, or that the matters in question were *ultra vires* of the company: *Ellis v. Norwich Broom and Brush Co.* (1906), 8 O.W.R. 25; *Meyers v. Cain* (1905), 6 O.W.R. 297; *MacDougall v. Gardiner* (1875), 1 Ch. D. 13, at p. 25; *North-West Transportation Co. v. Beatty* (1887), 12 App. Cas. 589; *Lindley on Companies*, 6th ed., p. 775; *Burland v. Earle*, [1902] A.C. 83; *Dominion Cotton Mills Co. v. Amyot*, [1912] A.C. 546. In the recent case of *Cockburn v. Newbridge Sanitary Steam Laundry Co.*, [1915] 1 I.R. 237, it was held that the transaction in question was illegal and *ultra vires*.

Motion dismissed with costs to the defendant, unless the trial Judge shall otherwise order.

Order granted allowing the amendment asked for.