

quently printed by order of the City Council. The action was dismissed by Middleton, J., and his judgment was affirmed by the Appellate Division, and the Judicial Committee (Lords Haldane, Buckmaster, and Dunedin and Duff, J.) have affirmed the Appellate Division. Their Lordships being of the opinion that even if the employment of the plaintiffs was *intra vires* of the corporation the contract in question was of such a nature that it could not be validly made except by by-law; and their Lordships remark that it is far from clear that the contract could be regarded as fully executed.

BRITISH COLUMBIA—REGISTRATION OF TITLES—INDEFEASIBLE FEE—REFUSAL TO REGISTER—*LIS PENDENS*—PENDING ACTION GOING TO THE ROOT OF THE TITLE.

*Esquimalt and Nanaimo Ry. v. Granby Con. Mining & S. Co.* (1920) A.C. 172. This was a proceeding under the British Columbia Registration of Titles Act. The Granby Con. Mining and Smelting Co. applied to the Registrar of the Land Titles Act claiming to be registered as entitled to an indefeasible fee in the land in question. They claimed to have acquired title under a grant from the Crown. The Esquimalt and Nanaimo Ry. claimed that this grant was invalid and claimed to be the owners under a prior grant from the Crown, and had commenced an action for that purpose and registered a *lis pendens*. The Registrar in these circumstances refused to register the applicants, they thereupon petitioned the Court to order the Registrar to register their title and the Railway Co. also applied to the Court by motion to inhibit any dealing with the land. Macdonald, J., before whom the petition and motion were heard, dismissed the petition, but the Court of Appeal reversed his decision and ordered the Registrar-General to register the mining company's title; and the Railway Company thereupon appealed to H.M. in Council. The Judicial Committee of the Privy Council (Lords Haldane, Buckmaster and Atkinson and Duff, J.) held that as the objection of the Railway Company went to the very root of the mining company's title and if it was established the mining company would have no title at all, the Registrar was right in refusing to register the company as entitled to an indefeasible fee and the judgement of the Court of Appeal was therefore reversed.