

vendor or any of the promoters are directors of the company, or that any of the directors have accepted office at the request of the promoters; and neither the vendors nor the promoters shall, by reason of any fiduciary relation with the company, be liable to account for any profit he may make or receive by virtue or in consequence of this agreement. In witness whereof these presents have been executed by or on behalf of the parties hereto the day and year first before written." I ask the witness if that is usual?—I think the same thing occurs in connection with at least two other companies; but it is really a legal question, and I am speaking from memory.

194. Was this clause 5 in the agreement embodied in the articles of association?—I do not think so.

195. This clause 5 is contrary to Table A of the Companies Act, of 1882. The memorandum of association says: "For the purpose of commencing mining operations to enter into a contract which has been already prepared, and is expressed to be made between William Richard Cook, of Dunedin, accountant, of the first part, and the company of the other part, for the sale to the company of the mining property therein mentioned for fifteen hundred fully-paid up shares of one pound each in the capital of the company as therein expressed"; but it does not say about the profits arising from the secretarial duties: can you explain why this was put in?—No, I cannot.

196. *The Chairman.*] Was the secretary paid office-rent for the company as well as salary?—The secretarial salary included office-rent; it included the use of office for ordinary purposes and board meetings.

197. *Mr. Herries.*] Did Mr. Holmes draw up this agreement as well as the memorandum of association?—Yes.

198. *Mr. Colvin.*] You say you are a shareholder in the company?—Inasmuch as I hold that one share that Mr. Cook gave me.

199. But that share was not placed on the register?—No; it is included in Mr. Cook's holding.

200. Then, you admit that you were acting as a dummy for Mr. Cook—you were acting as Mr. Cook's clerk and as secretary to the company, and you were not on the register?—I exercised no vote at any time.

201. I see by the balance-sheet that "preliminary expenses" amounted to £34 13s.: who got that money?—£1 11s. 6d. was paid to Mr. Sawell for printing.

202. *Mr. Herries.*] Is that the Mr. Sawell who applied for the shares?—Yes. Wilkin and Co. got £6 10s. for printing; Legatt, 14s. 6d. for printing circulars, I think, and office-stamp; the cost of registration of the company amounted to £15; and £10 17s. paid to Mr. Holmes for law-costs makes the total of £34 13s.

203. *Mr. Colvin.*] Who received the commission of £150?—Cook and Gray.

204. And who received the secretarial salary, £68 15s.?—Cook and Gray, through me.

205. And rent, £9 12s.?—That is the rent of the claim. The rent of office is included in the secretarial salary.

206. Was a separate account at the bank and a separate bank-book kept for this company?—Undoubtedly; that was the very first thing that was done.

207. Have you got the bank-book with you?—No; but there are separate bank-books for each company.

208. You said that you took that deed of association out of your safe when you left?—Yes.

209. And you stated to Mr. Somerville when he called for it that you did not think you had it?—It was last Monday that Mr. Somerville called for it, evidently under Mr. Easton's instructions.

210. You could not give it to him?—No, in all good faith. Mr. Somerville mentioned the Lees Ferry deed, and I said I thought the Tucker Flat document was in the hands of the solicitor with it.

211. Where was it?—It was in my safe.

212. Where was that?—In my room.

213. You have an office now separate from Cook and Gray?—In the same building.

214. You are carrying on by yourself, but are in the same room, and the deed was there all the time?—Yes.

215. Is the statement that Mrs. Cook owes £100 for calls in the Tucker Flat Company correct?—Yes.

216. And also the statement that Mr. Cook owes £90?—Yes—£65 and £25.

217. With reference to these calls that Mr. Easton objects to pay: if a man of straw put in a transfer—a man whom you did not know—would you pass it?—Not if there was any liability on the shares; but I could not transfer the shares—the directors would do that.

218. But they would not do it in such a case?—No, decidedly not.

219. You acknowledge that it is not right to transfer shares in a company when a call has been made and not paid previous to the transfer being put in?—I should say it is not right.

220. *Mr. Millar.*] Do you ever transfer shares when there is a liability on them?—No; but it has occurred.

221. It is a most unusual custom?—It is an illegal custom.

222. *Mr. J. Allen:* Has Mr. Wild not received his 750 paid-up shares?—No.

223. Why?—Because the directors have not allotted them. The directors were advised by the company's solicitor not to allot them for some time after the company started, until, at all events, they were perfectly satisfied about the title, &c.; and since that, on account of the various questions that have been raised, and the consequent trouble in the mining market, the directors have not taken steps to allot them.

224. The company has been registered?—Yes.

225. Is it not satisfied with the title?—Yes, I think so.