

having had the benefit of the solicitor's services, was bound to pay for them. On neither of these grounds did the appellant succeed. No one appeared to oppose the claim or to sift the evidence on which it was formed, but, shortly stated, the view of the court was, that it was for the solicitor to show a contract, and that no sufficient evidence was forthcoming. Could he, apart from an express agreement, establish his claim? The articles, it is true, bound the company to pay the preliminary expenses, but, said Lord Justice Lindley, the solicitor "was no party to the articles." A provision in an Act of Parliament may enable an outsider to sue, because it gives rise to a statutory obligation, of which the person named can take the benefit (an action for debt on a statute is, or was, a well-known form of action at common law), but an agreement, whether contained in articles of association or any other form of document, between A. and B., that B. shall pay C., gives C. no right of action against B. It is simply a question of who are the contracting parties. The theory that where one person gets the benefit of another's services he is bound to pay for them is fallacious, or, at all events, not universally true. "If," said Lord Justice Lindley, by way of illustration, "I order a coat and receive it, I get the benefit of the labor of the cloth manufacturer; but does any one dream that I am under any liability to him?"

It is important to remember that, if in the case already noticed the solicitor had brought his action against the company simply on the ground that he had done the work charged for, and that the articles provided for payment of such expenses, he would not have succeeded. Articles of association simply constitute a contract between shareholders *inter se*. Sec. 16 of the Companies Act, 1862, does not give them any wider effect, even where the solicitor is expressly named as such in the articles. *Ely v. Positive Government Security, etc., Company* (34 L.T. Rep. N.S. 190) is in point. There the solicitor was so named in the articles, which further provided that he should transact all the legal business of the company "for the usual and accustomed fees and charges, and shall not be removed from his office except for misconduct." Lord Cairns, L.C., in dealing with this case, made some general remarks which professional men, connected with companies, have perhaps not heeded very carefully. After pointing out the limited character of the publicity given to the appointment, his Lordship said: "I also wish to reserve my judgment as to whether a clause of this kind is obnoxious to the principles by which the courts are governed in deciding questions of public policy; but it does appear to me a grave question whether a contract, under which a solicitor is not bound to give any particular services, but the company, on the other hand, are bound to employ him on all their business . . . is a contract which the court would enforce. I prefer to reserve my judgment on the validity of such an agreement until a case arises which calls for a decision on that point."

But, whatever may be the true view of the policy of binding or attempting to bind a company to employ a particular solicitor, secretary, or manager, it is now abundantly clear that it cannot be done by merely providing for the appointment in the articles of association. Such an article is either a stipulation which would