

as to profits by purchase of debentures, etc. The company being in course of winding up, the liquidator took proceedings to recover from the directors their proportion of the secret profit made on purchase of the mortgage and debentures. Held on appeal, reversing Wright, J., that the syndicate trustees, having provided for the formation of the company, owed it to the company not to make a profit out of it without informing it of the fact; that there was no sufficient disclosure of the profit, a reference to documents by the inspection of which it might be ascertained what profit had been made being insufficient; that the agreement with Close was not binding on the company, as the directors who adopted it were not an independent body; and the fact that the company having been kept in the dark could not then rescind, was no bar to relief, and that the four were jointly and severally liable to replace their proportion of the secret profit.¹

Supposing, however, all the members of the purchasing company to be aware of the real facts of the case, it appears that the want of an independent board will not invalidate the agreement. *Volenti non fit injuria*.²

Numerous devices have been resorted to by promoters to secure promotion money at the expense of the company. One of the latest and most ingenious of these was an attempt by a director to get payment for services in promoting.³ P. was interested in certain property that he wished to hand over to a company; he also had the sole right to call for a lease of the S. property. In order to float the company he employed the services of A and B and caused the lease of the S. property to be made to him and A and B jointly. These three agreed to transfer the S. property to the company on receiving fully-paid-up shares therein. The company was registered with A and B as its first directors. In accordance with a method often now adopted in such cases, the articles provided that the directors should adopt the above agreement, and that its validity should not be impeached on the grounds of the directors being interested as vendors or promoters, that they should not be liable to account for any benefit

¹In *re Olympia, Ltd.*, C. A. [1898] 2 Ch., 153.

²Palmer Comp., at p. 227, citing *Salomon v. Salomon* (1897), A. C., 22; *Brit. Seamless Paper Box Co.*, 17 Ch. Div., 467; see also *Lagunas Nitrate Co. v. Lagunas Syndicate*, C. A. [1899] 2 Ch., 392.

³In *re Westmoreland Slate Co.*, Bland's Case, 2 The Reports, 509 (Ch. App., 1893).