distinction is that the property of the company is not legally vested in them. Another, and perhaps still broader difference, is that they are the managing agents of a trading association and such control as they have over its property and such powers as by the constitution of the company are vested in them, are confided to them for purposes widely different from those which exist in the case of such ordinary trusts as I have referred to, and which require that a larger discretion should be given to them. Perhaps the nearest analogy to their position would be that of managing agent of a mercantile house to whom the control of its property and very large powers of management of its business are confided, but there is no analogy which is absolutely perfect. Their position is peculiar because of the very great extent of their powers and the absence of control, except the action of the shareholders of the company. However it is quite obvious that to apply to directors the strict rules of the Court of Chancery with respect to trustees might fetter their action to an extent which would be exceedingly disadvantageous to the companies they represent." (pp. 150-1).

He cites with approval the earlier opinion of Lord Justice James in *Marzetti's Case* (1880) 28 W.R. 541, 543, that, "a director should not be held liable upon any very strict rules such as those, in my opinion, too strict rules which were laid down by the Court of Chancery to make unfortunate trustees liable. Directors are not to be made liable on those strict rules which have been applied to trustees."

In *Re Sheffield etc., Co.* v. *Aizlewood* (1889) 44 C.D. 412, at p. 452, Stirling, J., says that he takes it as established law that directors of trading companies are not trustees in the sense in which that term is used in settlements and wills, and that the rule laid down in *Re Faure Electric Co.*, is applicable to the directors of building societies. He quotes, also, with approval, the remarks of Lord Justice Cotton in *Marzetti's Case*. "Trustees are liable, whatever trouble they take, if the fund in their care goes not according to the trust. Opinions of counsel, bonâ fides, or care do not protect them. Now directors