

I have made no report to the General Phosphate Corporation as far as I can recognize any of these properties. It is very probable that they may be in possession of several reports which I have made for other people. They all gravitated to the General Phosphate Corporation.

Do you swear positively that you did not make a report direct to the General Phosphate Corporation, of any of the properties referred to in exhibit No. 1, previous to the sale thereof?

Objected to as illegal and irrelevant.

Objection reserved.

A. I have not reported on any of these properties to the best of my knowledge that I recognize here to the General Phosphate Corporation.

Q. Did you report to the promoters of the General Phosphate Corporation before its actual incorporation in connection with any of the properties referred to in exhibit No. 1? A. Who are the promoters?

Q. I am asking you, you know more about them than I do? A. I do not know.

Q. Have you got any idea who would be the parties interested in the General Phosphate Corporation, and who were the parties interested in it in September and November, 1890? A. Yes.

Q. Who were they? A. The directors. Q. Who were they? A. Sir George Haden Powell, Malibay Deely, Lord Stalbridge, Sir Jacob Wilson and Cecil Parker.

Q. Did you make a report to any of these parties that you have mentioned in connection with the properties that are referred to in exhibit No. 1? A. No, positively not.

Q. Did you not see Mr. Sando engaging himself on behalf of Mr. Stewart from the time you returned to London in July, 1890, until the signing of exhibit "A 1" or the original agreement of which it is claimed that exhibit "A 1" is a copy? A. Yes, I saw him.

Q. You saw him and what? A. I saw him. I met him and heard from him that the business was going on—proceeding.

Q. You knew then that he was taking up the matter for Mr. Stewart? A. Not more than he was continuing to consult me also as well as Mr. Stewart.

Q. It is not customary for a man in Mr. Sando's position to do such things, suppose after he had been engaged by Mr. Stewart to do so? Do brokers work for nothing in London? A. I cannot say.

Q. Do you know if they paid cash to Colly, Abbott and Fleming, or if they owe them a considerable sum of money? A. They paid some cash.

A. And gave them mortgages on the property for the remainder? A. I do not know that. I know that the sellers had negotiable papers besides cash.

Q. You know that the outstanding liabilities of this General Phosphate Corporation are very large? A. I have no reason to know it.

Q. Don't you know that they owe a lot of money? A. I have no reason to know it.

Q. Do you know if they owe you money? A. You must remember that I gave in my resignation a month ago, and that they may have paid it all off since then.

Q. But a month ago? A. I have no idea.

Q. Can you give us any idea at all? A. No; not since last November.

Q. During last November how much did they owe? A. Stating from memory, I might have had a liability of eighteen or twenty thousand dollars.

Q. Would that be apart from the balance of the purchase money of these properties? A. I am speaking now when I say eighteen or twenty thousand dollars, of the money owing in Canada to merchants and for wages, etc.

Q. Apart from that, don't you know that it is largely indebted for the purchase of the property? A. That I don't know more than having a glance over the annual balance sheet. I know there is an indebtedness.

Q. A large indebtedness, too, for the price of the property they have bought? A. The largeness is comparative.

Q. Didn't this indebtedness in November for the price of the properties amount to some hundreds in the neighbourhood of £40,000 sterling, or £50,000? A. I do not remember that it was as much as that.

Q. It was somewhere in that neighbourhood all told on all the properties? A. I do not know.

Q. I suppose the solvency of this Corporation depends altogether on whether this mining property turns out well or not? A. Yes; it depends on whether it works it.

Q. I suppose it depends also upon the quantity of phosphate that is to be found? A. Yes.

Q. So that if the phosphate trade does not turn out pretty well on these lots there is nothing for this Company to do only to go into insolvency—the usual fate of such Corporations? A. I suppose they fall—the natural consequence.

Q. A mortgage or hypothec given by such a Corporation would depend altogether upon the value of its mineral lands whether it was worth anything or not? A. To a large extent I should say it would.

Q. If those mineral lands were not worth the amount in the mortgages for which they were given as security, the vendor would virtually have no personal recourse against the Corporation that would be worth anything? A. I should say it would not apply to these properties.

These properties are sufficiently rich in mineral wealth, but speaking generally I suppose it is so.

Q. I am asking you if these properties should not turn out to be very remunerative, is it not a fact that the vendor would have no recourse against the Corporation as a Corporation that would be worth anything? A. Probably so.

Q. Do you think that Mr. Stewart, if he had remained at home, and not gone to London, and had not employed people to assist him in the sale of this property, that he could have sold the property here for £18,600 that he has stated he received for it in cash as the net proceeds of the sale to the General Phosphate Corporation? A. It is ridiculous for me to give you any appreciation of that. If I had my time across the other side I do not think I could have made any sale at all.

Q. You do not think that he could have sold this property for £18,600? A. He would never have made a sale at all if I had not gone across to the other side.

Q. You said a little while ago that the sale was completed when you got there? A. I do not know.

Q. You say a little while ago that the terms of the sale to the General Phosphate Corporation had been virtually completed when you got to London in August, 1890? A. Yes; but I was in London before that period. I have been over five or six times now.

Q. Do you think that if those properties were put upon the market to-day and brought to sale in Canada—the properties that are referred to in Exhibit No. 1—that they would realize more than £18,600 in the condition they were in on the third of September, 1890? (Objected to as illegal and irrelevant, being completely foreign to the matter at issue in this case. Objection reserved.)

A. It is completely problematical.

Q. Well answer it? A. I do answer it: it is completely problematical.

Q. You may use it to say whether they would or not? A. If it was put into my hands for instance.

Q. Or if it was brought to sale by the sheriff to-morrow or a month hence do you think it would realize more than £18,600?

Objected to as above.

A. Not by sheriff's sale, that would depreciate it.

Q. But by private sale; if it were offered for sale at public auction do you think it would bring anything more in your opinion? A. It would depend on whose reports were lacking it up and what brokers were handling it. It would depend upon the market price.

Q. Has not the phosphate industry greatly depreciated in the last couple of years? A. It may be up again next week.

Objected to as irrelevant.

Q. Has not the market value of phosphate lands greatly depreciated within the last couple of years? A. The market price of phosphate lands is always more or less fluctuating.

Q. At the present time the prices are down? A. Yes.

Q. And they have been down for a year or so? A. Yes; any man may recover them to some extent.

Q. In the present state of the market do you think these properties if offered for sale at public auction in the condition they were in in September, 1890, would bring £18,600?

Objected to as irrelevant.

A. Yes, I do.

Q. Would they bring more? A. Yes.

Q. You swear you think that? A. Yes, I think that.

Q. That is before any improvements were made upon them apart from the improvements that were on them in September, 1890? A. Yes. There were very few improvements made on them from the terrible way they had been worked.

Q. Had you an office in London during January, February and March, 1890? A. I had the accommodation of an office with my name on the door. Yes, I had an office in London.

Q. You had it in connection with somebody else? A. No.

Q. You were doing nothing else besides being in the interests of Mr. Stewart at that time? A. Yes, I was acting as independent mining engineer.

Q. Your services at that time were not exclusively given to Mr. Stewart? A. No, not exclusively, although my work at that time in London was limited to Canadian phosphate business.

Q. You did not limit your business by any means to the properties referred to in exhibit "A 1" during that period? A. No; there were others besides the High Falls property of Mr. Stewart. I could not sell them all.

CROSS-EXAMINED.

Q. What do you mean when you say that your occupation there was not exclusively limited to obtaining sale of Mr. Stewart's properties? A. There were other Canadian properties which were required to combine with Mr. Stewart's to make one successful undertaking—to wit Mr. Colly's which were acquired.

Q. Did you do there other work outside of the work which you were undertaking for Mr. Stewart, and if so, what was that work? A. It was the same kind of work, that is to say, the same brokers.

Q. And had you any other work? A. No other work except the specialty of Canadian phosphate properties.

Q. Your profession requires a special education? A. Yes.

Q. Are there many mining engineers in Canada that are known in London? A. Yes: a great many but not Canadian.

Objected to as not arising out of the examination in chief, and that Mr. Wills is not the proper person to testify to his own value.

Objection reserved.

Q. Are there many mining engineers in the vicinity of Buckingham who are known in London and have the confidence of the London mining public? A. Not many.

Q. You yourself lived in London for some length of time? A. Yes.

Q. What did you mean when you said in your examination in chief that you may have had a conversation with certain people, namely, Messrs. Franchot, Mackintosh and Benson, about the commission paid or to be paid to Mr. Sando by the defendant? A. I do not remember having had a conversation with either of these gentlemen on that subject.

Q. When you say that you mean by saying that you might have had? A. But meeting them and seeing them so often, it may have transpired, or they may have suggested or inquired, or we may have had some conversation upon the subject in that way. Under oath I cannot deny flatly that I have never spoken of the commission to Mr. Sando.

Q. What do you mean when you say that the essential work of forming the Corporation, that is the General Phosphate Corporation, was done before you left London in March, 1890? A. Mr. Sando, who had been the figure head in the proposed amalgamation of Canadian phosphate properties in London at the time—I am speaking now of January, 1890—was receiving offers of properties to the extent of some 3,000,000 acres. The scheme was then known as the Phosphate Trust, and on my arrival in London in January, which was about the 23rd, I think, up to the time of my quitting it for South America, the middle of March, I was in constant communication with Mr. Sando—more particularly advising the selection of certain Canadian properties.

Q. You said that indirectly you may have contributed to the forming of the General Phosphate Corporation. What do you mean by that? A. I mean that the first scheme proposed by Mr. Sando as the Phosphate Trust was completely irrealizable, and from my counsel and advice to Mr. Sando, his whole plans were changed from the Phosphate Trust to the formation of the General Phosphate Corporation.

Objected to as not arising out of examination in chief.

Q. What do you mean by irrealizable? A. The first scheme had been so adversely criticized by financial and mining people both in London and in Canada, and properties of comparatively no value unknown to Mr. Sando had been misrepresented to him as good, and so on—that is what I mean by irrealizable; that it had been crushed by public opinion.

Q. You say "irrealizable"? A. I say it was not to be realized.

Q. You have stated that the capital of mining corporations chiefly consists of mining lands. Do you mean to say that these corporations usually invest all their capital, and keep no reserve? A. A well organized and well managed company would certainly keep ample reserve.

SOME OF STEWART'S EVIDENCE.

Q. You have stated that Mr. Wills, the Plaintiff, was not present at the time that the agreement, Plaintiff's Exhibit "A 1," was drawn up, dated the 3rd September, 1890. Is it not a fact that Mr. Wills was in the same building, in the adjoining room, and that you went to him for advice at that time? A. I have no recollection of it.

Q. Will you swear that such is not the case? A. No; I will not.

Q. Was a draft of this agreement, Exhibit "A 1," made previous to the 3rd September, the date on which it was signed? A. Yes; there was.

Q. When was that draft made? A. I cannot recollect the date.

Q. Is it not a fact that Mr. Wills was present in the same building, in the adjoining room, when the draft last spoken of was prepared, and that you on that occasion consulted him? A. I do not think so.

Q. You will not swear that you did not? A. No.

Q. When did you pay Mr. Wills the \$2,141 on account of commission due under this letter of the 20th February? A. In different payments.

Q. About what dates? A. Mr. Aylen has the account of that. I cannot recollect the dates.

Q. Will you look at the account and state what are the dates? A. I produce the account of payments (filed as Exhibit A 16.)

Q. At that time the Plaintiff had been Manager of the General Phosphate Corporation for some length of time? A. Yes; some little length of time.

Q. And I suppose you were aware of the fact? A. He said so himself.

Q. You mean that he told you so? A. Yes; he told me so.

CROSS-EXAMINED.

Q. Who is Mr. Sando that is referred to in the correspondence and letters introduced with your examination in chief? A. He was the promoter of the General Phosphate Corporation.

Q. Is that the party who is referred to in Exhibit "A 13"? A. Yes.

Q. Did he take any part in assisting in bringing about the sale referred to in Exhibit "A 1"? A. Yes.

Q. What part? (Objected to as illegal and irrelevant, and as not arising out of the examination in chief, and as being inadmissible from the mouth of the Defendant himself.) A. He took the part of the promoter.

Q. How do you mean? Promoter of what? Of the sale? A. Promoter of the Company that purchased the property.

Q. Did he take any part in negotiating the sale? A. Yes.

Q. At whose request? A. At my request.

Q. Did he get any part of the proceeds of the sale for those services, and if so, what portion? (Objected to as irrelevant. Objection reserved.) A. Yes; he did. He got £11,000.