

In pursuance of this agreement, the mortgage in question was executed. It bears date the 30th April, and was signed on behalf of the company by Montgomery, who had become vice-president, and by the secretary.

This \$60,000 was taken to include the moneys that had been advanced by the three promoters; the intention being to wipe out this \$43,000 and to leave the property owned by the company—of which Kirkgaard really held all the stock—free from all liability other than the \$60,000.

Contemporaneously with the mortgage, a further agreement was executed by Hughes and Mackechnie, by which they transferred to Montgomery all the stock held by them, giving him power to transfer sufficient shares to form a duly qualified board of directors; and Montgomery, on his part, undertook to provide for the proper working of the mine and the continuous prosecution of development work, and for the payment by him and his associates of all moneys due in respect thereto.

Kirkgaard undertook to operate the mine according to his own ideas, and until recently paid all liabilities. His expectation was to get the mine in such a condition of prosperity that it would be readily sold. He has not yet found a satisfactory purchaser. The mortgage is long past due. Payments amounting in all to about \$19,000 have been made by Kirkgaard and his associates on account of it, thus reducing it to \$41,000 and interest. The mortgagees have from time to time granted delay to Kirkgaard and his associates to enable them to bring their schemes to fruition; but, the patience of the mortgagees becoming exhausted, they brought action upon the mortgage, and on the 30th April, 1913, a judgment was pronounced for its enforcement; the company, i.e., Kirkgaard and the officers, consenting thereto.

In the prosecution of the reference under this judgment, delay was again granted; but, when further delay was refused, this action was instituted, at the instance of a gentleman named Schlicht, who had become associated with Kirkgaard. On motion, an interim injunction was granted, on the terms that this action should be brought to trial at the Peterborough sittings. These terms were assented to by the company and by the plaintiffs. Notwithstanding this, on the eve of the trial a motion for winding-up was made by these plaintiffs, the patent object of which was to bring about delay by the statutory stay consequent upon a litigation order. This motion was enlarged to be heard before