

McDougall purported to transfer to Galbraith, one-fourth interest in said 160 acres. This transfer was to cover all surface, mineral, and other rights in the property. Galbraith was to provide funds for surveying and laying out the property into town lots, and other incidental expenses, preparatory to offering the lots for sale. These expenses were to be equally shared by each when property disposed of, or when a sufficient sum would be realized.

This agreement was subject only to this, that the Temiskaming and Northern Ontario Railway Commission would locate a station upon some part of the said 160 acres. In due course the station was located as expected. The parties then apparently thought it necessary to have a more formal agreement. It was not suggested by either party to this litigation or by anyone that there was need for further negotiation—or that any new terms should be introduced. It was simply that an agreement should be drawn up by a lawyer. On the 28th March, 1911, the more formal agreement was prepared by a solicitor and executed by the parties. The agreement recites the facts—there McDougall agreed to advance from time to time as might be necessary, or to become liable for one-half of all the expenses incurred through the expedient (sic) laying out of the said lots or any part thereof into a town-site the survey, filing a plan and advertisement of the same—and of the costs and expenses of clearing, grading, and laying out the streets of timber from the same lot and all other necessary and expedient expenses or outlays in connection with the development of the said town site, and the exploration of all mineral rights thereon.

Galbraith was to devote a reasonable amount of his time and attention to the affairs of the said town site and to assist in the laying out and improvement of the same, and the sale thereof.

In consideration of this, McDougall was to give to Galbraith an undivided one-fourth share or interest in the proceeds, arising from the sale of the said town site, in lots, or otherwise the timber and mining rights thereon and in all profits or benefits arising therefrom in any respect whatever.

Then it was provided that proper books of account should be kept of the receipts and expenditures in connection with the said townsite, and an audit of the same shall be made at the expiration of every six months or oftener; a division of the profits was to be made every