

sion of \$1,000 by the Morton estate. The agreement that he should not sell for less than \$450 per acre is admitted by both Smith and Marcon to have been made after the \$100 was paid and the other arrangements made. But whether in law it bound the respondent or not, he appears to have treated it as valid. He had to find some one to supply the \$9,900 due by him on the 12th May as well as the extra \$50 per acre. To do the one he could form a syndicate, but to do the other he had to sell. But if he could get anyone to put up the first heavy payment then a partnership with that person in which he and Smith were interested would enable him, on paying Marcon his third, to carry it through. If he could also realise his one-third and Smith's one-third of the \$50 per acre he could meet the third payment without difficulty when it became due. The property would in all likelihood have been turned over. This may be crediting him with too much foresight, but it was what he actually did. His agreement with the respondent was, therefore, naturally based upon \$450 per acre and all agree that it was so arranged.

The partnership or syndicate agreement prepared by Mr. Ellis is produced in the form (Ex. 2) which it assumed after the respondent had made changes in it relating to the control of the appellant as syndicate manager. The vital parts of it, so far as this action is concerned, were not changed and it clearly sets out the matter in a form which I think it is impossible for the respondent to disavow. The instructions came from him in the first place to Mr. Ellis. The object of the syndicate as set forth is to acquire the Pratt farm "from R. M. Morton *et al.*, under agreement dated 6th May, 1913." Although the cost is said to be "estimated" at \$33,750, another estimate includes the payments "due under said agreement" which are given as "\$13,750 forthwith" whereas the agreement only calls for \$9,900. The agreement further recites that "in entering into agreement dated the 6th May, 1913, for the acquisition of the property by John G. Coleridge, one of the subscribers hereto, he shall be deemed to have been acting on behalf of the syndicate."

The respondent has, therefore, a clear right to complain that when the syndicate or partnership was formed upon the faith of which he paid his money and by which the Pratt farm became partnership or syndicate property, his partner, the appellant, received, as did Smith, a profit of