

Gorman's not sending forward money promptly it seems that the transaction would have gone through in the manner contemplated. But there was danger of the deal falling through and Mr. Curry was appealed to and he sent the money. Curry was insistent that other friends he had should come in and says Murray: "I insisted on Gorman coming in as he had made this offer and that he was a good capitalist in that way and that we might want him for other deals, so Curry let him in," and "he was let in on a fifth of this deal." "He came in on the ground floor but not getting the whole space." At this stage, there can be no doubt that Gorman might have withdrawn when he was informed of the arrangement; but he did not do so, on the contrary he went into the syndicate of five who were to share equally in the profits.

The proposed transaction was an investment by Gorman of all the capital with an agreement that he should have one-third the profits, Bindon and Murray each one-third: what did take effect was an investment by Gorman of part of the capital with an agreement that he should have one-fifth the profits and Murray another fifth. This is so entirely different scheme from that proposed that unless Gorman and Murray were bound not to enter into any deal in real estate to the exclusion of Bindon, I do not see that Bindon can claim any share of the profit. It has not been argued that they could not have transactions with each other to the exclusion of Bindon, nor as I conceive can it be so argued. No doubt the admission of Gorman into the syndicate would not have taken place if he had not been expected previously to finance the whole deal; but it was not as carrying out in whole or in part the original scheme that he came in but on a new and different scheme.

Of course, this is not the case of a real estate agent suing for commission where the rules are very broad; but of one partner suing another for profit unduly made in what is alleged to be a partnership transaction. Nor is it the case of a partner attempting to secure for himself a benefit which it was his duty to obtain if at all for the firm. If Murray had acted in bad faith and after securing the property for the three had wrongfully turned it over to the syndicate, an action might have lain against him; but he is blameless in that regard, he could not do otherwise. And if Gorman had wrongfully permitted to be abandoned a contract which he was in a position to enforce and which would have procured