

annum, and legitimate travelling expenses, payable monthly. We also agree to pay office rents for offices now in operation, viz., Hamilton, St. Catharines and Woodstock, and to pay the rent on any new offices opened by Mr. Wallace, providing same meet with our approval. It is further understood that Mr. Wallace receive 15 per cent. commission on all lots sold in Prince Albert and Melfort, Sask., out of which commissions he is to provide payment for his agents.

It is also understood that the \$3,000 is to apply against the commission on this basis.

On city property, he is to receive 50 per cent. of the commission received, and on farm lands 50 per cent., under the same conditions as above as to payments of agents. The commission of any sale of survey lots to be paid, 50 per cent. on payment of first instalment, and 50 per cent. on payment of second instalment, an adjustment of commission between ourselves and Mr. H. J. Wallace shall be made on the 31st December, 1913.

Signed this 22nd day of April, 1913.

(Sgd.) A. McKay.
C. W. Burns."

"I hereby accept the above contract.

(Sgd.) H. J. Wallace."

The defendants were members of a syndicate interested in western lands. It did not appear that the defendants or either of them had title or possession or control of any of these lands, but they were interested and expected to realize a profit from their sale. The syndicate intended to form a company—a holding and selling company—and a company was incorporated, but it was never organized. It was not shewn who were stockholders or provisional directors of this company. No lands were placed in the hands of this company. The defendants did not get possession nor control so that they could sell, either individually or through the agency of the proposed company, or through the agency or management or assistance of the plaintiff. It turned out, that for some reason beyond the power of the defendants to prevent, there was nothing requiring the assistance of any investment company, so the company did not go into operation. Its corporate powers were not exercised. The plaintiff knew that these defendants had no lands to sell—apart