

I find the deed of the 30th October, to be what it purports to be—an absolute conveyance—not only because I decline to credit the slight evidence of Mr. Stuart, as being improbable in the circumstances and unsupported by any document, but also because his subsequent conduct is wholly inconsistent with the contention which the plaintiff now endeavours to maintain.

A letter dated October 2nd, 1902, was tendered in evidence and admitted subject to objection, which is depended on to shew that the father considered himself a trustee of the property for his son, who, after a year spent in Africa, has gone to the Canadian West, where he passed drafts upon his father which Col. Steele of the North West Mounted Police honoured, but which the father refused to pay. The letter in question was written in reply to Colonel Steele's request to be reimbursed. Mr. Stuart says that he is very sorry he cannot remit. All he can do at present is to assure Col. Steele that he will get his money "sooner or later." The son should not have said that he had money of his own in his father's hands. "He may excuse himself for saying so by reference to a property in Hamilton in which he was interested, but which I had to take over and hold subject to encumbrances for money paid for it, and I am still paying. It is, however, improving in value and some time there will be a surplus, and I do not mind saying to you that when a surplus is available I will see that you are paid out of it."

Then after stating that he has sent a small sum through the Bank of Montreal "to be paid weekly to my son so as to save him from the dire fate you hint at," the letter concludes by bespeaking a continuance of Col. Steele's good offices, promising that his kindness shall not be forgotten, and adding as a postscript, "I do not mean to say that you will not be repaid without depending on the property mentioned, but you may regard it as an ultimate security."

There is, it will be noticed, no assertion that at the time the son had any interest in the property. On the contrary it is stated that the son "*was* interested," that the father had taken it over and then held it. It was subject to incumbrance, but improving in value, and would produce a surplus "*sometime*," when the Colonel would be repaid. Not a word in the letter points to any legal obligation on the part of John Stuart in connection with his tenure of the property. He merely expresses a benevolent intention of devoting some