

satisfied the McCrimmon mortgage out of the general assets of the estate. And because Leitch & Pringle were not, at the time the Purcell estate were proceeding either to sell the land under the mortgage or eject John Wightman the younger from the land, in funds to pay off that mortgage, the executors were bound under the terms of the will to protect him against a sale of his land or ejectment therefrom.

Upon the facts as disclosed . . . *Manley v. London Loan Co.*, 23 A. R. 139, *Canada Landed Co. v. Shaver*, 22 A. R. 377, and *Campbell v. Morrison*, 24 A. R. 224, referred to by counsel for defendants, have no application here.

I must hold that the estate of John Wightman the elder is liable to Carman for the amount due on the mortgage and interest thereon. . . .

Now, in relation to which is known as the Gillespie mortgage: Messrs. Carman, Leitch, & Pringle were acting as solicitors for the late Mr. Wightman, and in 1882 they lent out considerable sums of money for him. Plaintiff Carman left the firm in 1885, and was then appointed Judge of the County Court. Among the investments made was a loan of \$495 on a house and lot in the village of Newington, the lot having a frontage of 66 feet by a depth of 150 feet. Mr. Duval, who lived at Newington and knew the property, said the main building was 20 by 24, with a kitchen and outhouses 18 by 30. Mr. Monro, the agent of the Royal Insurance Co.—which is a rather conservative institution—insured the house for \$500. Mr. Leitch said he knew the building very well, and his idea was that the house cost some \$800. He was satisfied from his knowledge of the property in that district, and after consulting Mr. Munro, who knew the village and inspected the property, and frequently acted as valuator for the late John Wightman, . . . that the amount was a fair one to lend on the property. Unfortunately, a few years after the loan was made, property in the village began to depreciate in value, and the house itself, by reason of no expenditure being made for repairs, had become somewhat dilapidated, so that when it was sold in 1892 the best price that could be obtained was \$375.

At the time the loan was made, it was regarded as a fair investment, and the depreciation which took place was unlooked for, and Carman, Leitch, & Pringle should not