

Baugh immediately sent Proctor to Toronto. Proctor endeavoured to secure an option from Stimson upon the stock, and I have no doubt that Baugh is right when he says that his instructions to Proctor were to secure an option. He had given Proctor two cheques, one for \$5,000 and one for \$2,500; and Proctor's idea was to obtain an option by putting up the \$2,500.

As soon as Proctor interviewed Stimson and suggested an option, Stimson declined, and stated that he would only deal on the basis of an unconditional contract. Finally a letter was dictated by Stimson, addressed to Baugh, and given to Proctor, offering to sell the stock upon certain terms. Communication was had over the telephone between Proctor and Baugh. The result was a request for a modification of terms, and a second letter; then further discussion, resulting in a letter dictated by Stimson but signed by Proctor in the name of "E. L. Baugh & Co., per A. P. Proctor," which refers to the two letters signed by Stimson and accepts the offer. This letter states that a contract will be at once drawn.

Stimson was about to leave the city, and Proctor consulted his own solicitor, and had a contract drawn and presented to Stimson for signature. It turned out that this contract was only an option, and I cannot acquit Proctor of the hope and desire to have this document signed by Stimson without Stimson realizing its true nature. The document is not produced, the solicitor who prepared it has unfortunately no copy, and, equally unfortunately, cannot find the stenographic notes from which the original was transcribed. It was, at any rate, contrary to the letters in question and to the intention of Stimson and Proctor.

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once promised to have the mistake rectified. A new document, that now in question, was drawn by the same solicitor and ultimately signed. Baugh says that he gave no authority either before Proctor's departure to Toronto or otherwise to Proctor to make an absolute contract, and that Proctor's authority was strictly limited to the obtaining of an option.

A telegram is produced, unsigned, but no doubt from Baugh, to Proctor, "Would suggest you comply with Stimson's wishes. Feel confident we could succeed in selling sufficient to pay amount due July at fifteen cents. Find out Mac's (meaning McCaffery's) purchaser if possible."