

tiation with Judge Carman, Mr. Pringle was acting solely as the agent of the executors of Wightman.

McNaughton and William Wightman were told of the arrangement . . . and I think it is due to Mr. Pringle to say that, although Leitch & Pringle had in their hands, as solicitors of the Wightman estate, more than the \$419.45, he was quite pronounced in his statement to them that the balance of the money would require to be raised from an outside source, and that was why he suggested applying to Judge Carman to lend it.

Judge Carman said he consented to make the advance on condition that the balance due on the Purcell mortgage should be payable one-half in one year and the other half in two years, for the reason, I suppose, that he did not desire to have the money repaid sooner, in the event of the executors desiring to obtain a loan on more advantageous terms. Hence the agreement of 15th January was entered into.

It is beyond question that the agreement was read over and fully explained to Mr. McNaughton, although he apparently had forgotten a good deal of what took place between himself and Mr. Pringle. . . .

The whole matter is set out in the recital to the agreement as to the ownership of the property by the late John Wightman, subject to a mortgage to Purcell for \$2,000; that there was now due on the mortgage \$2,200; and that the executors of Purcell were making an assignment of the mortgage to Judge Carman. The . . . executors of Wightman covenanted to pay the amount of the mortgage one-half in one year and one-half in two years, with interest payable half-yearly.

Mr. McNaughton, on 17th March, 1904, replying to a letter of Judge Carman of the day previous . . . said, "I will attend to it at once." On 22nd June, 1904, Judge Carman wrote again about payment of the mortgage, and Mr. McNaughton replied on the 24th, saying: "Perhaps you are not aware that Leitch & Pringle had a few hundred dollars more of Wightman's money than was required to pay that mortgage. They claimed it was impossible at that time to collect enough to pay MacLennan, and they suggested that we get the money from you until they could arrange for Wightman's money, and that the interest of one would meet the interest of the other. I agreed to that, and left the matter in their hands, and Wightman supposed