

Toole of the title, etc., and on the 4th, Toole came in and told Ap'John to draw up the papers—so that then there was in fact a contract for sale for \$6,700.

On Monday afternoon Nicholson went to Machin's office and was talking about raising the money to buy, but I cannot find that he said to Machin that he could or would raise the money. When they were talking, Ap'John told Machin that the land had been sold. During the same afternoon Toole came in and was told by Ap'John that Nicholson had been after the land—Toole at once said: "Has that property not been sold to me?" And Ap'John replied, "Yes." On Tuesday morning, June 7th, early, Toole brought in a cheque for \$50 to pay on account of the purchase, paid it to Ap'John and got a receipt, reading as follows:

"Kenora, June 7th, 1910.

"Received of Geo. A. Toole, Esq., fifty dollars deposit on lot 4, block 1, Kenora, part of purchase price, \$6,700—cash bal. on closing on good title being given.

"\$50.00

"H. A. C. Machin,
"F.J.A."

Mrs. Hose was communicated with by Ap'John and an appointment arranged to execute the deed. I have no doubt that Mrs. Hose knew and approved of the sale almost at once after this payment.

In the afternoon of June 7th Mr. McLennan, solicitor for Nicholson, took four cheques marked for \$1,650 each, saw Machin, and offered these in payment of the property as sold to Mrs. Nicholson—this was the first time Mrs. Nicholson's name had been mentioned in connection with the transaction. Machin refused to accept, and thereupon, and not before, McLennan offered the cheques on behalf of Mrs. Nicholson to redeem the property. Machin again refused. The deed was executed on the evening of the 7th June, handed to the purchasers June 8th, and registered on the 9th—the money was paid by the purchasers.

On June 8th McLennan sent a marked cheque by letter to Mrs. Hose (reaching her probably June 9th) tendering a cheque "\$5,816 in payment and redemption of the mortgage . . . on lot 4, block 1, Kenora, which includes principal, interest, and costs to date." He called for an assignment of the mortgage to Mrs. Nicholson—this cheque was refused and McLennan got it back, depositing it in the bank to his own credit June 14th.

So far as Murdoch Nicholson is concerned, it is plain that having parted with his equity of redemption by conveyance to the