

sometimes he renewed part of them. From the first of November, 1907, to the first of November, 1908, in the course of the year, I would probably get \$2,000 to \$2,500 from him. The same time I was carrying the account along he would be buying new goods from me—at the same time representing this amount I had other notes and drafts, part of which would be in the bank. Without looking at this memorandum the lowest sum the balance of this account would be in the vicinity of \$1,000 to \$1,100. When I got this note from Wallace, this Charman note, I discounted it and placed it to my credit; it would about wipe out my account. They were purchasing goods constantly and making payments on the different drafts as they matured.” Reading this evidence in the light of all the other facts and circumstances connected with the whole transaction, I cannot doubt that so far as the judgment is concerned it was recovered on a note which had been either reduced to the amount found by the learned trial Judge, or had been entirely paid by Betts’ remittances between the time it was given and the taking of the judgment, and that Betts, in suffering judgment to be taken against him for an amount not due on the note, was a participator in the fraud which was attempted in order to give the defendant, Morrison, a preference over other creditors.

In my opinion this appeal should be dismissed with costs.

MEAGHER, J., read a concurring opinion.

### NOVA SCOTIA.

#### SUPREME COURT.

FULL COURT.

NOVEMBER 26TH, 1910.

### MCCALLUM v. WILLIAMS.

*Principal and Agent—Commission on Sale of Real Property  
—Contract—Construction—Evidence.*

Appeal from the judgment of CHIPMAN, Co.C.J., in favour of defendant in an action to recover commission claimed in connection with a sale of land. Reported, 8 E. L. R. p. 376.

W. F. O'Connor, K.C., in support of appeal.

F. L. Milner, contra.