

of the proceeds—the surplus—whether over the encumbrances, or over the encumbrances and his outlay, is not clear, in repayment of moneys obtained by his son from a confiding friend under false pretences. Had the facts warranted it, a much stronger statement, I have no doubt, would have been made when Mr. Stuart was seeking to excuse the reprehensible conduct of his son.

There is not a suggestion anywhere in the evidence that the letter to Colonel Steele was ever brought to the knowledge or notice of any of the defendants until discovery was had in the present action.

Within a few weeks after the letter to Col. Steele was written—on October 24th, 1902—John Stuart, writing to Mr. Alexander Bruce, who was acting for the defendant bank in obtaining security for the large indebtedness of Stuart to the bank, says: “I should mention that I have a half interest in a piece of land mortgaged for \$19,000, the value of which is uncertain, but which may realize something over the mortgage at some future time.” The reference is to the “north end property.”

Here again there is no pretence that the son has an equity in the property, and there is an unequivocal statement that John Stuart now owns the half interest which was formerly his son's.

No reference to this property appears in the correspondence of the year 1903. In 1904, the bank was still pressing Stuart for a settlement of its claims against him. On January 19th Mr. Bruce writing to Mr. Macnider, the chief inspector of the bank, says, “you will remember that besides the blocks mentioned in my memorandum, he (John Stuart) told you at one time, of having an interest in some property at the north end of our city, which his son had purchased along with Mr. J. J. Scott, and there is probably something more in it than was supposed until quite recently, but I do not suppose it is a great deal.” The manager of the defendant bank at Hamilton, Mr. Braithwaite, in writing to Mr. Macnider on March 16th, 1904, estimated the value of this interest to be \$10,000.

The mill at Chatham had in the meantime been put up for sale and bought in for the protection of the bondholders. The bank was then in a position to ascertain the liability of John Stuart and other guarantors of the indebtedness to the bank of the Maritime Sulphite Fibre Company.