

901.916

33, 1950

No. 10 of 1950.

# In the Privy Council.

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## ON APPEAL FROM THE SUPREME COURT OF CANADA.

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BETWEEN

WILLIAM R. GLOVER (Defendant) - - - - *Appellant*

AND

EVELYN GLOVER (Plaintiff) - - - - *Respondent.*

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# RECORD OF PROCEEDINGS

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CHARLES RUSSELL & CO.,  
37 NORFOLK STREET,  
STRAND, W.C.2,  
*for the Appellant.*

BLAKE & REDDEN,  
17 VICTORIA STREET, S.W.1,  
*for the Respondent.*

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IN THE SUPREME COURT OF ONTARIO

(Writ issued the 9th day of March, A.D. 1946)

BETWEEN:

EVELYN GLOVER and  
ALBERT MOORE GLOVER

Plaintiffs,

and

WILLIAM R. GLOVER

Defendant.

10

STATEMENT OF CLAIM

1. The Plaintiff Evelyn Glover is a widow, and the Plaintiff, Albert Moore Glover, is a Medical Doctor, both residing in the City of Kingston, and are the sole heirs-at-law of Albert Glover, deceased.
2. The Defendant is a Dentist practising in the City of Kingston and is a brother and the Executor of the Last Will and Testament of the said Albert Glover, who was formerly a merchant in the City of Kingston.
3. About 1925, the said Albert Glover, deceased, purchased the property at No. 174 Earl Street, Kingston, Ontario, and converted it into an apartment house.
4. Later, he converted his own dwelling at No. 170 Earl Street into an apartment house and to finance these building operations, was obliged to borrow money from the London Life Insurance Company and from his brother, Robert J. Glover.
5. At some period during the depression in the 1930's the Defendant loaned money to the said Albert Glover and to secure himself took over the collection of the rents of the apartment houses. Later, when Albert Glover became mentally ill, the Defendant became a Trustee for him and took over the full control and management of the apartment houses at Numbers 170, 172, and 174 Earl Street. He collected rents for the said apartments amounting to between ten and twelve thousand dollars a year. The Plaintiffs say that the Defendant has collected in this way upwards of One Hundred and Fifty Thousand Dollars.
6. No accounting has ever been given, nor have any statements been rendered at any time by the Defendant for the said moneys and the Defendant has concealed from the said Albert Glover and the Plaintiffs and has misrepresented to the said Albert Glover and the Plaintiffs the true state of affairs, and has failed to answer letters demanding an accounting for the said moneys collected by him.
7. The said Albert Glover for some years prior to his death on December 23rd, 1945, was incapable of understanding or comprehending the most ordinary business matters and the Defendant's influence over him increased to such an extent that for the last three or

four years, the said Albert Glover had no independent will of his own and was wholly guided and controlled in everything by the Defendant.

Amended 8. On or about the 29th day of July, 1944, the Defendant, fraudu-  
18 Dec. 46 lently making use of the influence he had acquired over the said  
pursuant Albert Glover, induced and prevailed upon the said Albert Glover  
to Order to convey all his real estate to the Defendant and accordingly a  
of Quit Claim deed dated the 29th day of July, 1944, and not registered  
Reynolds until January 19th, 1946, after the death of the said Albert Glover,  
J. 10 was prepared and purports to have been executed by the said Albert  
Glover and the Plaintiff Evelyn Glover.

9. Four days later, the said Albert Glover, at the Defendant's request, made his last Will and Testament, directing that the income from his entire estate, both real and personal be given to the Defendant as Trustee to pay to the Plaintiff, Evelyn Glover, the income therefrom during her natural life and to give the corpus to the Plaintiff, Albert Moore Glover, upon her death.

20 10. The said deed was improvident and at the time of making the same,  
Amended the said Albert Glover was and acted wholly under the influence of  
18 Dec. 46 the Defendant, and the Defendant fraudulently exercising his influence  
pursuant and control over the said Albert Glover induced the said Albert Glover  
to Order to execute the said Quit Claim Deed in order to deprive the Plaintiffs  
of their inheritance and to obtain the said lands for himself and in  
of making the said deed, the said Albert Glover exercised no will of his  
Reynolds own and was entirely unable to appreciate the nature and quality and  
J. consequences of his act. The Plaintiff had no independent advice and  
did not understand the nature or effect of the documents she signed.

30 11. The Plaintiffs say that the Defendant had the said Albert Glover  
make his said will four days later, on the 2nd day of August, in  
order to confuse the issue and leave the impression in the minds of  
the Plaintiff, Evelyn Glover and the said Albert Glover that the  
document signed was a will and not a deed. At the same time, the  
Defendant well knew that if the Quit Claim Deed was upheld, the will  
could be of no effect.

12. As a result of the said Quit Claim Deed, the Plaintiff, Evelyn Glover, has been left entirely without means and has been deprived of an equity in the property worth from fifty to sixty thousand dollars, and the Plaintiff, Albert Moore Glover, has lost the property.

40 13. The Plaintiffs say and the fact is that the only indebtedness  
standing against the said property is a mortgage to the London Life  
Insurance Company on which there is less than Twelve Thousand Dollars  
owing at the present time.

14. The Defendant is now in possession of all the real estate of the said Albert Glover to which the Plaintiffs are entitled under his will and is in receipt of all the rents and profits from the said property.



15. The Defendant intends to and will, unless restrained by an injunction of this Honourable Court, sell and convey the said lands and premises to some innocent purchaser for value without notice of the Plaintiffs' rights.

16. The Plaintiffs accordingly claim:

- 10
- (1) A declaration that the said Quit Claim Deed of July 29th, 1944, and registered on January 19th, 1946, as No. 61005 is fraudulent and void and should be set aside.
  - (2) An order and direction of this Honourable Court that the Defendant convey the lands and premises set out in the said Quit Claim Deed to the Plaintiffs and account to the Plaintiffs for the rents and profits thereof.
  - (3) An injunction restraining the Defendant from selling, mortgaging or otherwise injuring, disposing of or dealing with the said lands and premises.
  - (4) The costs of this action.
  - (5) Such other or further relief as may appear just.

The Plaintiffs propose that this action be tried at the City of Kingston.

DELIVERED at Kingston, Ontario, this 3rd day of April, 1946, by C. M. SMITH, Esq., K.C., 79 Clarence Street, Solicitor for the Plaintiffs.

IN THE SUPREME COURT OF ONTARIO

(Writ issued the 9th day of March, A.D. 1946)

BETWEEN:

EVELYN GLOVER and  
ALBERT MOORE GLOVER

Plaintiffs,

-and-

WILLIAM R. GLOVER

Defendant.

10

DEMAND FOR PARTICULARS

The Defendant demands the following particulars of the Plaintiff's Statement of Claim herein for the purpose of pleading:

1. Whether the Plaintiffs are suing the Defendant William R. Glover in his personal capacity or in his capacity as executor of the will of the late Albert Glover, or in both capacities.
2. What date it is alleged that the said "Albert Glover became mentally ill", referred to in paragraph 5 of Statement of Claim; and at what date it is alleged that the said Albert Glover  
20 "was incapable of understanding or comprehending the most ordinary business matters" referred to in paragraph 7 of Statement of Claim.
3. What the alleged fraudulent misrepresentations are, whether they were made orally or in writing, and when and where each of them was made, referred to in paragraphs 6, 8 and 10 of the Plaintiff's Statement of Claim.

Dated this 11th day of April, 1946.

HUGH F. GIBSON,  
89 Clarence Street,  
Kingston, Ontario,  
Solicitor for Defendant.

TO: C. M. SMITH, K.C.,  
79 Clarence Street,  
Kingston, Ontario,  
Solicitor for Plaintiffs.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

EVELYN GLOVER and  
ALBERT MOORE GLOVER

Plaintiffs,

and

WILLIAM R. GLOVER

Defendant.

PARTICULARS

- 10 1. The Plaintiffs say that the present action against William R. Glover is in his personal capacity only.
2. The Plaintiffs allege that Albert Glover became mentally ill about three years ago and say that at the date of making the Quit Claim Deed referred to in the Plaintiffs' Statement of Claim, the said Albert Glover was incapable of understanding or comprehending ordinary business matters.
3. The fraudulent misrepresentations referred to in the Plaintiffs' Statement of Claim were made by the Defendant at different times, both orally and in writing and that the dates of  
20 the said misrepresentations are peculiarly within the knowledge of the Defendant, William R. Glover.
4. That perhaps the most important of the said misrepresentations was that made prior to the Signing of the Quit Claim Deed referred to in the Plaintiffs' Statement of Claim, and was to the effect that the said Albert Glover was indebted in a large amount of money to the Defendant and that he had no equity in his Real Estate.

DELIVERED at Kingston, Ontario, this 18th day of April, 1946, by C. M. SMITH, 79 Clarence Street, Kingston, Solicitor for the Plaintiffs.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

Amended pursuant  
to Order of  
Reynolds, J.,  
dated 16 Dec.46.

EVELYN GLOVER and  
ALBERT MOORE GLOVER

Plaintiffs,

and

WILLIAM R. GLOVER

Defendant.

STATEMENT OF DEFENCE

- 10 1. The defendant admits the allegations contained in paragraph one of the statement of claim, excepting that the defendant pleads that the plaintiff Albert Moore Glover resides in the City of Halifax in the Province of Nova Scotia.
2. The defendant admits the allegation contained in paragraph two of the statement of claim.
3. The defendant specifically denies that Albert Glover, deceased, became mentally ill as alleged, or that the defendant ever became trustee of the said Albert Glover, or that the defendant exercised fraud or undue influence on said Albert Glover, and puts the plaintiff  
20 to the strict proof thereof.
4. The defendant admits that the said Albert Glover was obliged to borrow money from the London Life Insurance Company to convert 174 Earl Street, Kingston, Ontario, into an apartment house, and pleads that the said Albert Glover also borrowed money from him for the same purpose.
5. The defendant specifically denies all other allegations in the plaintiffs' statement of claim.
6. The said London Life Insurance Company took a mortgage on 170,  
30 and 174 Earl Street, Kingston, Ontario, as security for its said loan to said Albert Glover, and were going to foreclose on this mortgage about 1935 by reason of non-payment of principal and interest by the said Albert Glover. To prevent this foreclosure taking place, the defendant pleads that, at the request of the said Albert Glover, he paid the arrears of principal and interest, and since that time and also at the request of the said Albert Glover, he paid all amounts of interest and principal due on said mortgage, until 29 July, 1944.
7. The defendant pleads that, since about 1933 and until 29 July, 1944, he paid the taxes, insurance and expenses of the apartments numbered 170 and 174 Earl Street, Kingston, Ontario, at the request  
40 of the said Albert Glover.
8. The defendant pleads that at the request of the said Albert Glover he borrowed \$3,500.00 from The Mutual Life Assurance Company

and various other sums of money at different times from the Bank of Montreal and The Bank of Toronto, Kingston, Ontario, and that he loaned these sums of money to the said Albert Glover. The defendant pleads that he has since repaid all these sums of money, but that the said Albert Glover remained indebted to him for said loans until 29 July, 1944.

9. The defendant pleads that the said Albert Glover gave him certain mortgages on said 170 and 174 Earl Street, Kingston, Ontario as partial security for the sums of money that the defendant had  
10 loaned to the said Albert Glover, but that no interest and no principal was ever paid at any time on any of them to the defendant and that the said Albert Glover remained indebted to him on these accounts until 29 July, 1944.

10. The defendant pleads that he advanced sums of money at different times from 1925 to 1944, to the said Albert Glover at the latter's request, and that the said Albert Glover remained indebted to him until 29 July, 1944.

Amended 11. The defendant pleads that he loaned the said Albert Glover at  
16 Dec. 46 the latter's request, approximately \$13,000.00 about 1920 for the  
20 re-purchase of the grocery store at the corner of Earl and Bagot  
pursuant Streets, Kingston, Ontario, and that the said Albert Glover remained  
to Order indebted to him for said sum until 29 July, 1944.  
of Reynolds

J. 12. The defendant pleads that in consideration for the release of all the indebtedness of the said Albert Glover to him, the said Albert Glover signed, sealed and delivered a quit claim deed dated 29 July, 1944 to him of said 170 and 174 Earl Street, Kingston, which quit claim deed was registered in the Registry Office for Kingston and Frontenac as 61005.

Amended 13. The defendant pleads that the plaintiffs are estopped by the  
16 Dec. 30 conduct of the said Albert Glover deceased from claiming any interest  
46 pursuant in the property in dispute in this action, and legally can not claim  
to Order any interest.  
of Reynolds J.

The Defendant submits that this action be dismissed with costs.

Delivered at Kingston this 3rd day of May, 1946.

BY HUGH F. GIBSON,  
89 Clarence Street,  
Kingston, Ontario,  
Solicitor for Defendant.

TO: C. M. SMITH, K.C.,  
79 Clarence Street,  
Kingston, Ontario,  
Solicitor for Plaintiffs.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

EVELYN GLOVER and  
ALBERT MOORE GLOVER

Plaintiffs,

and

WILLIAM R. GLOVER

Defendant.

JOINDER OF ISSUE

10 TAKE NOTICE that the Plaintiffs join issue with the  
Defendant on the Statement of Defence filed.

DATED at Kingston, this 20th day of November, 1946.

C. M. SMITH, Esq., K.C.,  
79 Clarence Street,  
Kingston, Ontario,

Solicitor for the Plaintiffs

IN THE SUPREME COURT OF ONTARIO

HIS HONOUR JUDGE REYNOLDS ) Monday, the 7th day of  
IN CHAMBERS ) October, A.D. 1946.

BETWEEN:

(Seal)

.20

L.S.

EVELYN GLOVER and  
ALBERT MOORE GLOVER

Plaintiffs,

and

WILLIAM R. GLOVER

10.

Defendant.

Upon the application of the defendant, upon reading the pleadings and affidavit of Hugh Francis Gibson filed, and upon hearing what was alleged by counsel for the plaintiffs and for the defendant;

1. IT IS ORDERED that the plaintiff Albert Moore Glover do attend at his own expense before C. H. Wood, A Special Examiner in the City of Kingston, at his chambers Court House, Kingston, and at such time as the said plaintiff's solicitor shall in writing inform the defendant's solicitor but not later than the 5th day of  
20 December, 1946, and do there and then submit to be examined viva voce on oath touching his knowledge of the matters relating to this action, and in pursuance of the practice in that behalf, and in default of the said plaintiff Albert Moore Glover so attending at the time and place aforesaid, the said plaintiff's action shall be dismissed with costs.

"C. H. Wood"

Local Registrar S.C.O.

Entered in Order Book at folio  
No. 203 this 28th day of Nov.  
1946

"C. H. Wood"

Local Registrar S.C.O.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

EVELYN GLOVER

Plaintiff,

- and -

WILLIAM R. GLOVER

Defendant.

NOTICE OF APPEAL

10 TAKE NOTICE that the Defendant appeals to the Court of Appeal from the Judgment pronounced by the Honourable Mr. Justice LeBel on the 14th day of June, 1947, and asks that the said Judgment may be reversed and that Judgment should be entered for the Defendant dismissing the action with costs, upon the following grounds:

1. The Judgment is against the evidence and the weight of the evidence.
2. The learned Trial Judge erred in his application of the law to the facts of this action.
- 20 3. The learned Trial Judge erred in finding that a fiduciary relationship existed between Albert Glover and the Defendant.
4. The learned Trial Judge erred in finding that Albert Glover did not understand the purport of the Quit Claim Deed in question in this action.
5. The learned Trial Judge erred in finding that Albert Glover did not have independent advice.
6. The learned Trial Judge erred in finding that the mental powers of Albert Glover had become materially impaired before the date of the Quit Claim Deed.
- 30 7. The learned Trial Judge erred in finding that the Defendant had taken advantage of his position.
8. The learned Trial Judge erred in failing to find that the transaction in the circumstances of this case was rational, fair and reasonable as between Albert Glover and the Defendant.
9. And upon such further and other grounds as Counsel may advise after the Judgment has been settled and the evidence at the Trial has been transcribed.



AND TAKE NOTICE that in support of this appeal will be read the pleadings, the evidence at the Trial, the said Judgment, the reasons for Judgment and such further and other material as Counsel may advise.

DATED at Kingston this 28th day of June, 1947.

HUGH F. GIBSON,  
89 Clarence Street,  
Kingston, Ontario,

Solicitor for the Defendant.

TO: C. M. SMITH, Esq., K.C.,  
79 Clarence Street,  
Kingston, Ontario,

Solicitor for the Plaintiff.

---

PART II - EVIDENCEIN THE SUPREME COURT OF ONTARIO

BETWEEN

EVELYN GLOVER and  
ALBERT MOORE GLOVER,

Plaintiffs;

-and-

WILLIAM R. GLOVER,

Defendant.

---Tried before THE HON. MR. JUSTICE LeBEL, at Kingston, Ontario,

10

February 19th, 1947, et seq.

---o---

A P P E A R A N C E S:

---C.M. SMITH, K.C.,

appeared as Counsel  
for the Plaintiffs;---HUGH F. GIBSON, Esq., )  
T.J. RIGNEY, K.C., )appeared as Counsel  
for the Defendant.

---o---

HIS LORDSHIP: What is the nature of this action?

MR. SMITH: This action is one to set aside a quit claim deed, dated July 29th, 1944, purporting to have been given by Albert Glover, of his real estate in the City of  
20 Kingston, on the ground that the said Albert Glover was incapable of transacting business, and on the ground that the deed was improvident, and, so far as the grantors were concerned, was given without any independent advice and without consideration.

HIS LORDSHIP: Is there any special relationship between the parties?

MR. SMITH: Evelyn Glover is a sister-in-law of the defendant, William R. Glover. There is just a slight amendment I would like to make in the Statement of Claim.  
30 I wish to add in paragraph (8) the words, "And the plaintiff, Evelyn Glover."

HIS LORDSHIP: Is there any objection to that, Mr. Gibson?

MR. GIBSON: The solicitor for the plaintiff has already applied for that. He got an order last December, and has not seen fit to take out the order and make the amendment.

W. Rowell, dir-ex, Plaintiff

MR. SMITH: Well, if that is the case, I suppose it can be amended now.

HIS LORDSHIP: You will have to take out the order. I do not want to make another order if there is already an order to that effect. You will have to take out the order right away. I won't amend the Pleadings. I will take it that there should be the words, "And the plaintiff, Evelyn Glover." Be sure that that order is taken up without fail, so the record can be amended in accordance with the order.

10 MR. SMITH: I will do that, my Lord. I will call the photographer, Mr. Rowell.

---

WILLIAM EDGAR ROWELL, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

COUNSEL FOR THE PLAINTIFF:

Q-- Mr. Rowell, you are a photographer? A-- That is right.

Q-- In the City of Kingston? A-- That is right.

20 Q-- I show you some photographs. Did you take these photographs? A-- Yes, I did.

Q-- Will you tell us what they represent? A-- The property on the corner of Earl and Clergy Streets.

Q-- In Kingston? A-- Yes.

Q-- Do you know who owns the property, or whose property it is? A-- No, I do not.

Q-- What is the first photograph you have in your hand, Mr. Rowell, please? A-- This was taken from the opposite corner -

30 BY HIS LORDSHIP: Q-- Speak up, please. The first photograph is what? A-- The first photograph was taken across the road. I could not get it all in one photograph, so I had to take two photographs. It represents the back of the property, and the two apartment buildings.

BY MR. SMITH: Q-- Do those two photographs you have produced fit together to show the full extent of the property? A-- They do.

Q-- So those two photographs taken together show the two apartment buildings, looking from Earl Street.

40 HIS LORDSHIP: Exhibits one and two. The one showing most of the buildings will be exhibit one, and the one consisting mainly of ground will be exhibit two.

---Exhibit Number (1): - Photograph depicting the property on corner of Earl and Clergy Streets.

W.Rowell, dir-ex, Plaintiff

---Exhibit Number (2):- Photograph depicting the property on corner of Earl and Clergy Streets.

BY MR. SMITH: Q-- What have you there in your hand now? Is that another photograph? A-- Yes, this is the larger apartment building, taken from the side view, and the ground at the back.

Q-- That is a view of the larger of the two apartment  
10 buildings? A-- Yes.

Q-- And that is taken from the side? A-- Yes.

Q-- That will be exhibit three.

---Exhibit Number (3):- Photograph depicting the larger of two apartment buildings at Earl and Clergy Streets.

Q-- You have another photograph? A-- This is a photograph of the same, only a front angle.

BY HIS LORDSHIP: Q-- What is it? A-- It is the same  
20 apartment building, the larger of the apartment buildings, photographed from a different angle, and more of a front view.

BY MR. SMITH: Q-- More of a front view? A-- Yes.

Q-- That will be exhibit four.

---Exhibit Number (4):- Photograph depicting the larger of two apartment buildings at Earl and Clergy Streets.

MR. SMITH: That is all, thank you.

BY HIS LORDSHIP: Q-- When were those pictures taken?  
30 A-- Exhibits one and two were taken on Saturday afternoon, a week ago Saturday, and exhibits three and four were taken on the following Monday.

Q-- Thank you.

MR. GIBSON: No questions.

---The witness retires.

---

WILLIAM JOHN GIBSON, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

40 Q-- Mr. Gibson, you are the Registrar of Titles, The Registrar of Deeds, for Kingston and Frontenac? A-- I am,

W.Gibson, dir-ex, Plaintiff

Q-- I show you an Abstract of Title, bearing your signature. Will you tell me what that is, if you please?

A-- Well, it is described as part of lot twenty-five, at the corner of Clergy, West, and Earl.

Q-- That is the corner just up here a short distance?

A-- Yes, adjoining the jail wall.

BY HIS LORDSHIP: Q-- Clergy, West and Earl? A-- Yes. It is just in the corner - it is really the corner of West and  
10 Earl. The three streets come together. It is more of West and Earl, I would say.

Q-- There is a West Street, is there? A-- Yes, a West Street.

BY MR. SMITH: Q-- From where we are standing here, West Street is the street running up by the Registry office? A-- Yes.

Q-- And Earl Street goes west? A-- Yes.

Q-- And this is at that corner? A-- Yes, at that corner, at that intersection.

Q-- Just immediately beyond the jail premises here?

20 A-- Adjoining.

Q-- Now, this is an abstract of the title to that property. Who does it show as the owner of the property, Mr. Gibson, please? A-- The last document is a quit claim, Albert Glover and wife, to William R. Glover, registered January, 1946.

Q-- January, 1946.

BY HIS LORDSHIP:

Q-- From whom? A-- From Albert Glover and wife, to William R. Glover.

BY MR. SMITH: Q-- Who was the owner immediately prior  
30 to the quit claim deed? A-- I do not think that is a question I can answer.

Q-- Isn't it? A-- I do not think so - there is a vesting order - a certificate of vesting order away back in 1907, in the name of McRae - vested in Albert Glover all estate of plaintiff and defendants.

Q-- That is a vesting order vesting it in Albert Glover? A-- Yes.

Q-- There is a mortgage, instrument 42280. Who is that to? A-- A first mortgage, 1926. Albert Glover and wife, to the  
40 London Life Insurance Company, twenty-five thousand dollars.

Q-- And is there any subsequent mortgage undischarged? A-- Then, registered August, 1928, mortgage from Albert Glover to William R. Glover. That is marked "released", and then there is a mortgage registered in 1938, Albert Glover and wife, to William R. Glover.

Q-- How much is that, Mr. Gibson, please? A-- Fifteen thousand dollars. It says, "Subject to mortgage."

W. Gibson, dir-ex, Plaintiff

Q-- Is there any other mortgage on the abstract, undischarged? A-- No.

Q-- So that there are the two mortgages, the one to the London Life Insurance Company, about which you have told us, and another one to William R. Glover; is that right? A-- Yes, sir.

Q--All right, thank you very much. That, my Lord, if you please, will be exhibit five.

10 ---Exhibit Number (5):- Abstract of title to lot 25,  
at corner of Clergy, West,  
and Earl Streets, Kingston.

HIS LORDSHIP: You have no objection to that means of proving the title, have you, Mr. Gibson? You are not objecting to that?

MR. GIBSON: No, my Lord. I am going to ask Mr. Gibson to produce the instruments, too, my Lord.

HIS LORDSHIP: You mean, the original instruments?

MR. GIBSON: Yes, the ones that are registered - the  
20 ones referred to on this abstract.

HIS LORDSHIP: Have you got certified copies?

MR GIBSON: No, my Lord. I do not intend to introduce them as exhibits.

HIS LORDSHIP: Very well; go ahead. I was just asking if there was any objection to this means of establishing the title, merely by filing an abstract, referring to the entries in the abstract.

MR. GIBSON: No, there is no objection, my Lord.

CROSS-EXAMINATION BY MR. GIBSON:

30 Q-- Are there any mortgages which you would strike out in red ink, which are not shown here - strike out in red ink in the abstract books of the Registry Office? A-- I am not in a position to say. They would not show there at all, and I would not take any cognizance of them in making the abstract.

Q-- This abstract is made up in the normal way, where mortgages over ten years, undischarged, are struck out?

BY HIS LORDSHIP: Q-- You would show them, wouldn't you? A-- If the discharge has not been registered more than ten years.

40 MR. GIBSON: All right.

MR. SMITH: I will call Mrs. Evelyn Glover.

---The witness retires.

E. Glover, dir-ex, Plaintiff

MRS. EVELYN GLOVER, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q-- Mrs. Glover, how old a woman are you, if you please? Can you hear me? (No answer)

Q-- What is your age? A-- I beg your pardon?

Q-- What is your age? A-- Yes.

10 Q-- How old are you, Mrs. Glover? A-- Seventy-five.

Q-- Seventy-five? A-- Yes, old enough to vote.

Q-- Now, Mrs. Glover, you have heard this property mentioned which is shown in the exhibits which have been put in. Do you know this property? I show you the photographs. What is that a photograph of? That is exhibit number two. What is that property? A-- The property?

Q-- Yes. A-- This is up here on Clergy Street here.

Q-- Who owns the property? A. Well, I am supposed to own it now. My husband passed out a year ago, and I suppose  
20 I was left the property.

Q-- Who owned it while he was alive? A-- Well, my husband.

Q-- Your husband owned it? A-- Yes.

Q-- What does it consist of?

BY HIS LORDSHIP: Q-- What was his name? A-- Albert Glover. He only had the one name.

BY MR. SMITH: Q-- Tell us about the property. What does it consist of? A-- Well, of course, I did not know much about that. I mean - my husband had a will - he made a will,  
30 and he left everything to me.

Q-- Mrs. Glover, just tell us what that is in the picture. A-- This here. (indicating)

Q-- Yes. A-- Well, that is the whole house pretty much there, you know.

Q-- And what sort of a house is it? A-- I beg your pardon?

Q-- What is the nature of it? A-- What do you mean?

Q-- Do people live there? A-- They have been there quite a long time.

40 Q-- Is it an apartment house? A-- Well, it was an apartment house, yes, in the end.

Q-- That is what it is now? A-- Yes, it is an apartment.

Q-- Tell me, do you know how many apartments there are in the two buildings? A-- Yes, I think there is eleven or twelve. He kept adding to it, but I think there is about twelve apartments. There is a third floor.

E. Glover, dir-ex, Plaintiff

Q-- A third floor? A-- Yes.

Q-- And you are living in one of the apartments now, are you not? A-- Well, I am there alone just at the present time. My son and his wife are with me just now, but I have been living there alone since my husband passed out.

Q-- Since your husband died, you have been there alone? A-- Yes, and, of course, I supposed everything was mine. That is what I always understood.

10 Q-- Now, tell me this. You know W.R. Glover, do you?

A-- Yes.

Q-- And what relation was he to you? A-- Well, he was my husband's brother.

Q-- Your husband's brother? A-- Yes, but he was not interested. He has nothing in that apartment house.

Q-- How long have you known W.R. Glover?

Q-- W.R. Glover?

Q-- Yes. A-- About as long as my husband.

20 years. Q-- A great many years? A-- I have known him many many years. Of course, he had not any interest in that apartment house.

Q-- Well now, Mrs. Glover, I want to ask you if you remember having any business with W.R. Glover at any time? A-- I do not understand you.

Q-- Do you remember W.R. Glover ever coming to get you at the house about some business matter? A-- Not that I know - I don't remember anything about that.

30 Q-- You do not remember anything about that? A-- No. Of course, I supposed when we were through that it was to be mine. I have a son, and I thought the property was ours. We were married fifty years, and I thought, of course - I thought I was entitled to whatever there was. Fifty years is a long time.

Q-- Do you remember going out one day with your husband and W.R. Glover? A-- Yes.

40 Q-- Well, tell us about that. A-- Well, one day I was sitting in my house, and my husband came in, and he said, "Willis out there, and he wants to drive me down. He wanted to show us something, and he wants to drive me down," and so he drove me down, - and so he drove us down, and as I supposed, and I did not think very serious -

Q-- Where did he take you to? A-- Lawyer Dwyer came out of his office with a paper, and Will took us up the steps, and lawyer Dwyer came out, and handed my husband a paper, and then he signed it. We trusted Will, but he has not proved very honourable.

Q-- Did he take you up the steps to the lawyer's office? A-- We all went up together, and then lawyer Dwyer came out -



E. Glover, dir-ex, Plaintiff

Q-- Whose car did you go down in? A-- He drove us down in his own car.

HIS LORDSHIP: Where is lawyer Dwyer -

BY MR. SMITH: Q-- Was that in Kingston? A-- He drove us down in his own car -

Q-- Take it easy, now. Where was that place? Was it in Kingston? A-- Yes, in Kingston.

Q-- Down town? A-- Yes.

10 Q-- On Wellington Street? A-- Yes, on Wellington Street.

Q-- And you went down in Mr. W.R. Glover's car; is that right? A-- Yes, he drove us down, and lawyer Dwyer handed my husband a paper, and he signed it, and then he handed it to me to sign, and we did not think anything of it.

Q-- Did you know at the time what the paper was? A-- No, but my husband trusted Will with his very soul. He never dreamed that he would do anything like that on him. It hurt my husband.

20 Q-- Was the paper read over to you? Was that paper read over to you? A-- Well, I do not think he read it. He just handed the paper to my husband, and then he signed it, and then he gave it to me, and I signed it, and I do not think we read it over, but my husband trusted Bill, and he has been found wanting.

Q-- Did you know at the time what the paper was about? A-- I had no idea. We had never heard anything about it, and we were not told anything. Will drove us down, and he never spoke anything.

Q-- Was W.R. Glover in the room all the time that the paper was being signed? A-- He was right there.

30 HIS LORDSHIP: When was this?

BY MR. SMITH: Q-- When was it, approximately? A-- When?

Q-- About when? A-- Well, it is quite awhile now - I would not want to just say the time - more than a year, or a couple of years, and, of course, we never thought anything; we trusted Will.

HIS LORDSHIP: It is more than a year, is it?

BY MR. SMITH: Q-- Was it more than a year? A-- Oh, yes, it is more than a year; it must be two years.

40 Q-- It must be two years? A-- It must be. Time flies, you know, and, of course, we were not told, and I think we should have been told what we were signing. I do not think it was legal to hand us that paper and let us sign it.

Q-- You did not know what it was about? A-- We did not know a thing about it - neither one of us - and I think we should have been told, but, as I say, my husband trusted Will with his very soul.

Q-- Was there anybody else in the room? A-- No, I do not think there was anybody else in the room. There was just the two of us and Will.

E. Glover, dir-ex, Plaintiff

Q-- Your husband and yourself, and the lawyer, and Mr. Glover? A-- Yes, and Will came up behind -

Q-- Had you ever been there in that office before? A-- Never - never was in it.

Q-- Had you ever signed any other papers that you recall in any lawyer's office? A-- No.

Q-- You do not recall that? A-- No, but I think we should have been told what we were signing.

10 Q-- Now, Mrs. Glover, after you left there, where did you go? A-- Will brought us home. He drove us down in his car, and then he brought us home, and we did not know then what we had signed. That was an awful thing, for a brother to sign against his brother. We - I will never forgive him for that.

Q-- Was there any change in your arrangements at home after that? A-- Well, no, I do not think we ever talked about it.

Q-- What I mean is, did you continue to live as you had lived before? A-- Yes.

20 Q-- There was no change. You stayed in the same place, did you? A-- Yes.

Q-- And where was that, in which house? A-- Well, we lived in the first floor - on the second floor.

Q-- Is that the house on the left of exhibit two? A-- This is the house here. (indicating) We lived up here on the second floor.

Q-- She is pointing to the left of exhibit four, my Lord, and you lived on the second floor of that house, did you? A-- Yes, on the second floor.

HIS LORDSHIP: What exhibit is that?

30 MR. SMITH: That is exhibit two, my Lord.

BY MR. SMITH: Q-- What business experience have you had, Mrs. Glover? A-- Business experience?

Q-- Yes. A-- Well, I have never had very much. Of course, I helped him in the store.

HIS LORDSHIP: Helping in what store?

BY MR. SMITH: Q-- What store was that? A-- Well, we had a store down on Bagot Street, when we were first married.

Q-- And it was a grocery store, was it? A-- Yes.

40 Q-- And how many years ago would that be? A-- It is a long time ago. I think you are going back too far.

Q-- Had you done any business in the last twenty-five years? A-- Yes.

Q-- Had you done any business in the last twenty-five years? A-- Oh, yes, I helped him in the store longer than twenty-five years.

Q-- I mean, in the last twenty-five years? A-- I had not been out of the store very long.

Q-- How many years ago did you help in the store? A-- Well, I was in the store helping for a long time -

E. Glover, dir-ex, Plaintiff

BY HIS LORDSHIP: Q-- When did your husband sell the store? Did he sell the store? Did your husband sell the store?  
A-- Well, yes, he sold the one store down on Bagot Street. He sold that and then moved up and went into this building.

Q-- When did he sell the store? A-- He sold the store.

Q-- When? A-- A long while ago.

Q-- How many years ago? A-- Well, it must be sold - it must be sold ten or twelve years or more than that, I guess.

10 BY MR. SMITH: Q-- Ten or twelve years or more than that?  
A-- Yes.

Q-- Now, Mrs. Glover, what is the nature of the work you did there when you did help? A-- Down at the store?

Q-- Yes. A-- Well, I did general work. I waited on the customers, and tied up the parcels. That is a long way back, you know.

Q-- Did you have anything to do with the bookkeeping or the accounts? A-- No, I never touched the books.

20 Q-- Just waiting on the customers? A-- Just waiting on the customers, and we generally had a girl who looked after the books.

Q-- How long ago did you do that? How long ago since you stopped? A. Well, after my son was born, I did not go down so much, you see.

Q-- How old is your son now? A-- Thirty-eight.

Q-- Then you have not done anything for over thirty years at the store; is that right? A-- That is right.

30 HIS LORDSHIP: This writ was issued on the 9th of March, 1946, Mr. Smith, and I presume her husband was alive at that time?

MR. SMITH: Yes.

BY MR. SMITH: Q-- When did your husband die, Mrs. Glover?  
A-- I beg your pardon?

Q-- When did your husband die? A-- Just about a year ago, the 27th of December.

Q-- The 27th of December, 1946; is that right? A-- Yes.

Q-- Or, 1945, was it?

HIS LORDSHIP: December, 1945, and we have an action instituted in his name in March, 1946.

40 MR. SMITH: That was the son. Albert Glover was the husband - Albert, senior.

HIS LORDSHIP: And he is no longer a plaintiff in this action?

MR. SMITH: No, he is no longer a plaintiff.

HIS LORDSHIP: How does he disappear?

E. Glover, dir-ex, Plaintiff

MR. SMITH: He was down in Halifax in the Army, and he was asked to attend for examination for discovery, and he could not make it, so his case was struck out.

HIS LORDSHIP: Was there any order?

MR. SMITH: There was an order, I believe, striking that out.

HIS LORDSHIP: Does the record contain the order?

10 MR. SMITH: I think the record had been filed when the order was taken out. The case was on at a former sittings. It was set down for trial at a former sittings.

HIS LORDSHIP: Here is your copy of your order in here. His Honour Judge Reynolds, December 18th, 1946, in which he allows the amendment you sought to secure there. These records must be regarded by your office as more than a simple routine.

MR. SMITH: I am very sorry, your Lordship.

HIS LORDSHIP: Now, I take it there is another order as made by somebody, at some date, dismissing the action as far as Albert Glover is concerned?

20 MR. GIBSON: I have the original order here, my Lord (Producing)

HIS LORDSHIP: This is the first order. Where is the order admitting the action? Is there any other order? He was required within a certain time to attend, and in case of failure, said plaintiff's action to be dismissed with costs. Where is the order?

MR. GIBSON: The last clause of that order, my Lord.

30 HIS LORDSHIP: But where is the proof that he did not attend at the time and place? Where is the order? There has to be another order before it is struck out.

MR. GIBSON: I have it here, my Lord.

HIS LORDSHIP: Are you sure the order was taken out, Mr. Gibson?

MR. GIBSON: No, there was no further order taken following that.

40 HIS LORDSHIP: Then there will have to be an order taken out. You will have to show that within the time mentioned, he made no appearance. That order can be attached to this order, and both orders together can be put in as exhibit number six. It is left to me to decide whether the action should be dismissed as against Albert Glover.

E. Glover, dir-ex, Plaintiff

BY MR. SMITH: Q-- Now, Mrs. Glover, how old was your husband at the time he died? A-- Well, I think about 77 or 79. He was seventy-nine, I think.

Q-- Well, did he have any dealings with W. R. Glover?

A-- With W. R. Glover?

Q-- Yes, did your husband? A-- No, that was not my husband.

Q-- No, but did your husband have any dealings with W. R. Glover? A-- Well, they used to be together a lot. At the last, I think W. R. Glover was his financial secretary, and he took charge of everything, and when my husband passed out, I was not even consulted.

Q-- Do you know if W. R. Glover had anything to do with your husband's business? A-- Well, yes, for twelve years he was his legal adviser.

Q-- What was done? What did he do for your husband?

A-- For my husband?

Q-- Yes. A-- Well, he had been in this building business all his life. He built all those apartments -

Q-- No, but what did W. R. Glover do for your husband?

A-- I do not think he ever did much, only to carry a paper and pencil.

Q-- Well, what business did he look after? A-- Well, he was in the building, that is all.

Q-- What buildings did he look after? A-- Well, he helped to fix over the apartment, and W. R. Glover was with him for the last twelve years.

Q-- Who handled the money? A-- And when my husband passed out. I was not even consulted.

Q-- Who handled the money? A-- Why, he did, I guess.

Q-- Who? A-- W. R. Glover.

Q-- Do you know that? A-- Well, I did not know it at the time, no. It was all done, and I did not know anything until my husband passed out.

Q-- Do you know who collected the rents? A-- My husband collected the rents as long as he was living, and he took them down as I supposed to the bank, but he took them out to W. R. Glover.

Q-- You thought that he was taking them to the bank?

A-- I thought that he was taking them to the bank, and he was taking it to W. R. Glover; and W. R. Glover had been running his business for twelve years, and I did not know anything about it.

Q-- You did not know anything about it, and your husband was collecting the rents until he died; is that right? A-- Yes, he always collected the rents. In fact, they were paid to me, and when they were all in, my husband took them, as I supposed, to the bank, but instead of that, he took them to W. R. Glover.

Q-- Were they still being paid to you at your husband's death? A-- I beg your pardon?

E. Glover, dir-ex, Plaintiff

Q-- Were they still being paid to you at your husband's death? A-- No, no -

Q-- Did you still get the rents up until your husband died? A-- No, W.R. Glover took full charge of everything.

Q-- You said the rents were paid in to you? A-- Yes, the cheques came in to me, and when they were all in, I handed them over to my husband, and I supposed he took them to the bank, but instead of that, W.R. Glover took them to the bank.

10 Q-- All right, now. When did you collect rents - over what period? A-- Well, just since my husband passed out, you know.

Q-- Did you collect any before he died? A-- They then - they used to be handed to me, but I used to pass them on to him, and I presumed that he took them to the bank.

Q-- That went on until your husband's death - for years, did it? A-- When my husband passed out, I was not told anything.

20 Q-- Was that for years before your husband's death, that you collected the rents, that you received them? A-- Oh, yes, for years.

Q-- Did they still bring rents to you after your husband's death? A-- After my husband died, Bill stepped in and took charge of everything, and never even asked me anything.

Q-- Did anybody bring you their rents after your husband's death? A-- When my husband passed out, Bill stepped in and has been running the business ever since.

Q-- Did anyone bring you their rents after your husband's death? A-- No, I do not think so.

30 Q-- You do not think so, but they had done that; that was their habit before his death? A-- Yes, that was the habit, yes.

Q-- Do you get along without glasses? A-- I have got glasses; I have them with me.

Q-- Can you get along without glasses all right? A-- Well, not very good.

Q-- Can you read the paper without your glasses? A-- I cannot read the paper without glasses.

Q-- You cannot? A-- No.

Q-- Did your husband have to wear glasses? A-- Oh, yes, he could not read anything without glasses.

40 Q-- He could not read anything without glasses? A-- No.

Q-- Do you remember whether you had your glasses or whether he had his the day you went down to the lawyer's?

A-- We did not have our glasses. Neither of us had our glasses, and we did not know what we were signing, and we were not told.

Q-- What sort of terms were your husband and W.R. Glover on? A-- I beg your pardon?

E. Glover, dir-ex, Plaintiff

Q-- What terms were your husband and W.R. Glover on?

A-- I do not know that they had any terms. I think W.R. ran the whole show, and my husband let him. He trusted Bill with his very soul, and then Bill has been found wanting.

Q-- Were they friendly? A-- Yes, they were friendly.

Q-- Would you say they were intimate friends, close friends? A-- For many years they were friends. They were together every chance they got. For twelve years Bill ran his  
10 business.

Q-- Did your husband ever tell you something about a will? A-- Well, he said that he made a will.

Q-- Did he tell you any more? A-- No, that is all he said. He said that he made a will, and I never saw any will, but he had told me that he made his will, and I never saw it.

Q-- You never saw it? A-- No.

Q-- Do you know now who the executor in the will was? A-- I beg your pardon?

Q-- Do you know now who the executor was? A-- No.  
20 Bill gave up his dental practice to look after my husband's business, so it must have been more profitable than dentistry.

Q-- Did they build other apartments together? A-- Yes, there are other apartments.

Q-- Where is one other apartment that they built together? Did they build other apartments in Kingston?

A-- They built apartment houses - different apartments all in one building - I think there is fourteen.

Q-- They worked together building apartments, did they? A-- Well, I do not think Bill understood the building. He just  
30 kept the books. He does not know anything about building.

Q-- Would you say they were partners? A-- I do not know that they were partners. I do not know what they were. I think Bill had the full control, as far as I could make out.

Q-- You think that he had the full control? A-- Yes.

Q-- Do you know anything about a building on Earl Street, or the corner of Earl and Sydenham? A-- Yes, there are some apartments there. My husband supervised all that.

Q-- Do you know who owns that? A-- Well, I do not know - I guess maybe Bill. I do not know who owns it.

40 Q-- But they both worked at that, did they? A-- Yes, and there are some nice apartments.

Q-- Were they both interested in that? A-- Well, my husband did the work, that is all I know. He was fond of building. He learned his trade as a boy, and in the finances, I think Bill had full control.

E. Glover, cross-ex, Plaintiff

Q-- Do you know anything about a woman's rights in property? Do you know anything about what rights a woman has in property, a married woman? Do you know what right a married woman has in real estate? Do you know anything about that?

A-- No.

Q-- You do not know anything about that? A-- No.

Q-- That is all.

CROSS-EXAMINATION BY MR. RIGNEY:

10 Q-- Mrs. Glover, your husband was a mason by trade?

A-- Yes, he learned his trade.

Q-- And he worked at that trade practically all his life?

A-- Well, not all his life. The last twenty years of his life, he was in the building.

Q-- Well, that is mason work? A-- Well, it was not all mason work.

Q-- But if he were asked what his business was, he would say a stone mason, wouldn't he, or a mason? A-- I believe he would.

20 Q-- He carried on business for a number of years on the corner of Bagot and Earl Streets? A-- He never liked the grocery store. There were pretty hard times then.

Q-- It was Glover's Grocery? A-- Glover's Grocery.

Q-- And Miss Moore - was she your sister? A-- Yes.

Q-- She was the active member there, wasn't she? A-- Her life and soul was in that place.

Q-- And she carried it on? A-- Yes.

Q-- And it was only after her death that that place was given up, wasn't it? A-- That is all.

30 Q-- And after that, your husband did a lot of work, as you call it, in the building trade? A-- He learned that as a boy.

Q-- And he carried it on? A-- And he carried it on until he passed out.

Q-- And the poor man was not sick very long? A-- He was not sick at all.

Q-- And he was sensible? A-- Yes, the night before he passed out, we never dreamed that he was going to pass out.

40 Q-- There was no mental or other sickness? A-- No, nothing at all.

Q-- And he carried on his business up until the day of his death? A-- Well, he went into this building business.

Q-- But that was the business that he was carrying on? A-- Yes, he carried on until the last.

Q-- And he was only in the hospital about a day or so, wasn't he? A-- Well, he came back out of the hospital. He died at home. He was only about two or three days in the hospital. You could not keep him there.



E. Glover, cross-ex, Plaintiff

Q-- I knew him well, as you know? A-- He would not stay in the hospital, and he demanded that he was coming home, and they had to bring him. He said that he was never used to hospitals.

Q-- And he died in his own house? A-- Yes.

Q-- Now, in connection with the business that was carried on down at Bagot and Earl Streets for so many years, did you know that that property was mortgaged? A-- Well, I did not know anything about that. I did not know that.

10 Q-- And I think from what you have told my friend, Mr. Smith, that you had very little to do, or very little knowledge of his business. Your husband was not a man to talk about his business? A-- No, he did not talk at all.

Q-- You did not know anything about it? A-- No, I didn't.

Q-- And if there were any papers to be signed, you would sign them at the request of your husband? A-- Yes.

Q-- And that carried on for a number of years, didn't it? A-- And then he sold it out. He never liked it.

20 Q-- Well now, he was a great friend of the late Mr. Dwyer, wasn't he? A-- Yes.

Q-- He knew him all his life? A-- Yes.

Q-- He knew him as a boy; your husband knew him as a boy - do you hear me? A-- Yes.

Q-- Your husband knew Mr. Dwyer very well? A-- Oh, yes.

Q-- And was a great friend of his? Do you say Yes or No; was he a great friend of his? A-- Who?

Q-- Was your husband Albert a great friend of Bill Dwyer? A-- I do not know if they were very intimate. I know they were friends, and all that.

30 Q-- Do you remember him having any legal business to do with any person else? A-- Well, for the last twelve years his brother managed everything for him.

Q-- I am talking about legal business - drawing up papers and things like that? A-- No, I do not think so -

BY HIS LORDSHIP: Q-- What lawyer did your husband use to go to when he drew up papers, do you remember? Do you remember what lawyer your husband went to see when he had any papers to be drawn up? A-- I do not know anything about that.

40 Q-- You do not know where he went; is that what you say? A-- I did not know much about my husband the last twelve years.

BY MR. RIGNEY: Q-- Did you ever hear him talk of doing business with any other lawyer except Bill Dwyer? A-- No, he never went in much in the law business.

Q-- But did you know that he had any business with Mr. Dwyer? A-- No.

Q-- Very well. Now, what did your husband say when you went down to Mr. Dwyer's office; what did he tell you that he was going there for? A-- He did not tell me anything about it. I was not told anything. I was sitting there, and my husband came,

E. Glover, cross-ex, Plaintiff

and he said, "Bill wants us to sign something. He is at the door, and he will drive us down," and, of course my husband trusted Bill with his very soul. Well, we went down, and lawyer Dwyer brought out this paper, and we signed it, and neither one had glasses, and we did not know what we were signing.

Q-- You have told us that already, and I am trying to save you going over what you have already told us, but  
10 I was trying to find out what if anything your husband told you you were going down there for? A-- No, my husband never told me anything. He never spoke. Will drove us down, and I do not think we spoke going down or coming back.

Q-- But Mr. Dwyer's office was not on the ground floor?  
A-- No, we had to go up some steps, and we went there, and lawyer Dwyer came out with those papers, and we signed them.

Q-- I do not understand that. When you speak of him coming out, what do you mean? A-- Well, he was in his office, and he stepped out on the balcony.

20 Q-- You do not mean that he came down to the car?

A-- Well, he came out there -

Q-- Well, he had not any papers when he came down to the car? You got the papers in his office? A-- Yes.

Q-- And the papers that were signed were signed, you say, by husband and yourself? A-- Yes, of course; when my husband signed, I signed, and I never asked any questions. I suppose my husband would sign anything for Will.

Q-- Your husband had not told you that he was buying any more property, did he? A-- He never told me anything.

30 Q-- And he had not told you that he was signing his will, had he, at that time? A-- No.

Q-- And in addition to yourself and your husband, you say Doctor Glover was there - when the papers were signed?  
A-- Well, Doctor Glover drove us down, but he was right there, of course.

Q-- That is what I asked you. A-- Yes, he was right there when we signed, and, of course, we did not know what were signing.

40 Q-- And was Mr. Dwyer also there? A-- Well, he came out of the office, and I suppose he was there, in the door, or some place.

Q-- Was there any person else there? A-- Not to my knowledge.

Q-- Might there have been some person else there that you did not know? A-- There might have been in the office.

E. Glover, cross-ex Plaintiff

Q-- I am not talking about in the office. I am trying to find out who was in the room when the papers were signed?  
A-- Lawyer Dwyer is the only one I know of.

Q-- I understand you to say that in addition to Mr. Dwyer, there was yourself - A-- Yes, my husband and I were there. We were there.

Q-- Yourself and your husband? A-- Yes.

Q-- And Mr. Dwyer. What about Doctor Glover? A-- Well, 10 he stood in the back, and he did not come to the front, and he did not come out in front or sign anything.

Q-- Was he there when you signed? A-- Well, I suppose so; he was in the back.

Q-- You say you suppose so. Do you remember whether he was there or not? A-- Well, he was there, of course, because he later drove us home.

Q-- He was in the building, but I am talking about who was in the room? A-- We did not go up into the room. We just stood out on this balcony, and signed. We did not go into Dwyer's 20 office.

Q-- Is there a balcony at the head of the stairs?

A-- Yes.

Q-- And where were the papers when you signed them; what were they resting upon; were they on a table? A-- They were on the table, I guess. I do not know much about that.

Q-- You did not sign them up against the wall? A-- No, they were on a table.

Q-- And was the table brought out to put the papers on, or was it already there? A-- I think it was already there.

Q-- Was there an electric light - A-- I do not think we 30 needed it. It was in the afternoon.

Q-- I am not asking you that. A-- I do not know about the electric light.

Q-- You speak of it being signed on a balcony - A-- A little kind of a balcony. We did not go into lawyer Dwyer's office.

Q-- Is that all you can remember as having taken place? Do you remember anything else that happened at that time?

A-- Well of course, I am sorry to say - we both took it very 40 light - we did not get it impressed upon us - we did not dream of anything like that.

Q-- You went home the same way as you came down; Doctor Glover drove you home? A-- Yes, he drove us home.

Q-- And when you were home that night, did your husband and you talk about what you had - A-- No, I do not think we ever brought it up.

E. Glover, cross-ex Plaintiff

Q-- You say you do not think so, but I would like to be positive. Are you swearing you did not talk about it? You are not in the habit of going to a lawyer's office every day?

A-- No.

Q-- And I am suggesting to you that your husband and yourself that night had a conversation about what happened in lawyer Dwyer's office: is that right or wrong? A-- Well, I do not think there was anything happened. I do not think we ever  
10 brought it up.

Q-- Can you swear that you did not? A-- I beg your pardon?

Q-- Can you swear that you did not bring it up, and that it was never mentioned? A-- I can almost swear that we never talked about it, because he trusted Bill with everybody.

Q-- Your poor husband was conscious right up to the last, wasn't he? A-- Yes.

Q-- And he had only had a doctor see him a day or two before his death? A-- Yes, we thought that he never could be sick,  
20 you know.

Q-- And did he ever tell you where he got the money with which he bought the property? A-- I never knew anything about his business. I do not know anything about it.

Q-- I am not asking about that, Mrs. Glover, I am asking you a very simple question. Did he ever tell you where he got the money that he bought the property with? A-- No, he never told me.

Q-- And you never asked him? A-- No, and I never asked him.

Q-- And did you think that he had enough money to buy that  
30 property on his own? A-- Well, I suppose so. It was a big house, and they were all rented.

Q-- I am talking about when he bought the McRae house. Did you know that he had enough money to buy that house? A-- I did not know anything about his finances.

Q-- You did not know whether he had or not? A-- Well, I do not know anything about his finances.

Q-- Before he bought it, did he tell you that he was going to buy it? A-- No.

Q-- He did not even tell you that? A-- No.

Q-- Without being in any way disrespectful, your husband  
40 was not much of a man to discuss his business with his wife? A-- No, he was not, and Bill was the legal adviser, and he occupied all his time.

Q-- And you would sign anything that your husband asked you to sign? A-- Well, I would then; I would not now.

Q-- I am talking about at that time? A-- I had a good lesson.

E. Glover, cross-ex Plaintiff

Q--I am talking about then. Now, did Doctor Glover ever make any promise to you, or any request - A--I never talked anything with Doctor Glover about the business at all. I never had any conversation with him, and I never asked anything, only I knew that he was around there, and carrying a paper and pencil, and I knew that he was drawing a salary, and that is all I knew. Nothing was said to me.

10 Q--All right. And when the rents that you told my friend, Mr. Smith, about were paid to you, I suppose some of them would be in cash and some of them would be in cheques?

A--Well, yes, they would be cheques and cash.

Q--Did you ever examine any of the cheques to see who they were payable to? A--Well, no, I do not think I ever did.

Q--You would simply hand them over to your husband as you got them? A--Yes.

Q--Now then, your husband was a clever man, and a very industrious man? A--Yes, he was too industrious; that was what was the matter.

20 Q--A hard-working man? A--Yes.

Q--And a very honest man? A--Yes, he was too honest for this world.

Q--He would not want to owe any money to any person? A--No.

Q--He would pay his debts honourably? A--Yes.

Q--And that has been his record forever? A--Yes, if he had the money, he always paid his bills.

Q--He did not want to be in debt? A--No.

Q--Is your Christian name Evelyn Glover? A--Yes.

30 Q--Is that your signature (indicating)? A--Yes, that is my name, Evelyn Glover.

Q--Did you sign that name there? A--Well, it looks like my writing.

Q--And this is a deed, Mrs. Glover, from yourself and your husband to some person called Letitia Walker of the city of Kingston, in the County of Frontenac, wife of Herbert L. Walker, and the said Herbert L. Walker, and it is a deed for three thousand dollars, for a property that was sold on the 9th of April, 1913, apparently by yourself and your husband to Mrs. 40 Walker. Would that be the store? Did people named Walker buy the store? A--I don't know.

Q--You don't remember that? I am told it is a house that was next door to the store on Bagot Street? A--I do not think we had anything to do with that. That belonged to Mr. Fatty(?).

E. Glover, cross-ex Plaintiff

Q-- There is another house between Mr. Fatty and the store, and that is the house that you sold - however, you don't remember selling a house between Fatty's and yours? A-- There was not any house between Fatty's and the store.

Q-- Now, Mrs. Glover, I also show you another paper. Is that your signature - that is your husband's and yours? A-- Yes.

Q-- That is a mortgage for twenty-five thousand dollars, given by Albert Glover, and you, as his wife, to the London Life Insurance Company? A-- That must be many years ago.

Q-- It was. The 21st July, 1926. A-- I thought so. That is a long time ago.

Q-- That is more than twenty years ago? A-- Yes.

Q-- Do you remember that? A-- No, I don't remember anything about that at all.

Q-- I am told that this was money that was borrowed by husband, a mortgage given by you and him to the London Life Insurance Company? A-- That might be, but I don't remember signing it.

Q-- You do not remember, but you know it is your signature? A-- Yes, but I don't remember much about it.

---Exhibit Number (6):- Deed dated 9th April, 1913, between Albert Glover, Evelyn Glover, and Letitia Walker and Herbert L. Walker.

---Exhibit Number (7):- Mortgage dated 21 July, 1926, between Albert Glover, Evelyn Glover, and the London Life Insurance Company.

Q-- Now, here is another paper. I show you the signature, Albert Glover, and Evelyn Glover? A-- Yes.

Q-- Is that your signature? A-- Well, that is my writing. I signed it, but that must be many years ago.

Q-- It was after the last one - it was the next year? A-- I do not remember anything about this. I never was told anything about them. I must have signed it, but I don't know.

Q-- You do not remember your husband asking you to sign this at that time? A-- No.

Q-- But you did sign them? A-- That is - those are all out of date, aren't they? I do not think I was alive when these things were there. They should have been looked after fifty years ago - bringing it up now before me -

Q-- I am simply just bringing this back to try and refresh your memory? A-- Well, I do not remember signing this - that is my signature, I will admit that - that is a long while ago. It is out of date, isn't it?

Q-- Albert Glover - that would be your husband? A-- Yes.

Q-- And that is your signature? A-- Yes.

Q-- And it is witnessed by B.E. Webster. That is a brother

E. Glover, cross-ex Plaintiff

of the present Mr. Charles Webster, the lawyer? A-- Yes.

Q-- And it is a mortgage between your husband and yourself, and W.R. Glover and R.J. Glover, dated the 1st of July, 1931, and registered in the Registry office for the Registry Division of Kingston and Frontenac, on the 15th July, 1931, as number 47141. A-- Did I sign that?

Q-- Well, you have told me that you did. A-- Well, I do not think I signed anything about those papers at all - there is my name, but I do not remember anything about that.

---Exhibit Number (8):- Mortgage dated 17th March, 1927, between Albert Glover, Evelyn Glover, and The Brockville Loan and Savings Company.

---Exhibit Number (9):- Mortgage dated 1st July, 1931 between Albert Glover, Evelyn Glover, and William R. Glover and Robert J. Glover.

20 Q-- Now, here we are getting down to - A-- Down to my time -

Q-- This will be nine years in July. This was in 1938, 11th July, 1938, and it is a mortgage given by Albert Glover and his wife to William R. Glover, for fifteen thousand dollars, and it bears the signature of "A. Glover" and "Evelyn Glover." Is that your signature? A-- It must be mine, but I do not remember anything about it. I think I was handed a paper to sign, and I signed, and I don't remember anything about this. This must be out of date. Aren't they paid or anything? They must be paid after all these years.

30 Q-- It is your signature, but you do not remember anything about it. Do you remember your husband asking you to sign it? A-- No, I do not remember anything about it.

Q--But you did sign it? (No answer)

Q-- A mortgage from Albert Glover, et al., to William R. Glover, and registered on the - I think it is the 11th July, 1938, as number 51941.

40 ---Exhibit Number (10):- Mortgage dated 11th July, 1938, between Albert Glover, et al., to William R. Glover.

A-- This must be out of date.

Q-- I am simply pointing this out to you - A-- This must be paid -

Q-- Some are deeds - what about that? A-- That is my signature.

Q-- You have told the court about going with your husband down to Mr. Dwyer's office? A-- Yes.

Q-- To sign a paper? A-- Yes.

E. Glover, cross-ex                      Plaintiff

Q-- And I hand this paper to you, and I ask you to look at it, please, and to tell the Court whether this is the paper that you signed in Mr. Dwyer's office at the time that you have been telling us about? A-- Well, I would not know that.

Q-- Well, look at it, please. I am asking you whether you recognize that as the paper you have been telling us about, which you say was signed by your husband and yourself in Mr. Dwyer's office. Look at it, and examine it, carefully, please.

10 A-- That is going back a long way -

Q-- All I ask you to do, Mrs. Glover, please, is to tell me whether that is the paper you signed in Mr. Dwyer's office when you went down with your husband and Doctor Glover. Do you say it is? A-- Yes, well -

Q-- I may tell you it is dated on the 29th of July, 1944? A-- Well, that is about it. That was the girl in the office, I suppose.

Q-- Helen Parent. Was she there? A-- Well, there was a girl there.

20 Q-- Did she see you sign it? A-- Well, we did not know what we were signing; that was not legal.

Q-- I am not discussing that at all. I am trying to find out what happened down there. A-- Nobody spoke. It was just signed by my husband and I, and we walked out.

---Exhibit Number (11):- Quit Claim Deed, dated  
July 29th, 1944, between  
Albert Glover, Evelyn  
Glover, and William R.  
Glover

30 Q-- This is a quit claim deed from Albert Glover and Evelyn Glover to William Glover, dated July 29th, 1944 registered as number 61005.

HIS LORDSHIP: There was a quit claim deed showing on the abstract dated the 19th July, 1946.

MR. RIGNEY: That is the date of its registration, sir. It is dated the 29th July, 1944, and the affidavit of execution was sworn by the witness as of the 29th July, 1944, and the affidavit of the status of the wife, made by Albert Glover, bears the same date, and the registration was on the 19th July, 1946,  
40 my Lord.

Q-- Now, Mrs. Glover, are you tired? A-- Oh, no, I want to get this finished.

Q-- I am told your husband had his faculties to the last? A-- He had them to the last. He was never in bed, only about twenty-four hours.



E. Glover, cross-ex Plaintiff

HIS LORDSHIP: It does not matter whether he was in bed or walking around. Do you hear me -

MR. RIGNEY: His Lordship says that he is not concerned with whether he was in bed, but you have answered the question, when you told me that he was in possession of his faculties?

A--Oh, yes.

Q--You never suspected there was anything mentally wrong with him? A--Oh, no, I do not think there ever was.

10 Q--You have told me that Doctor Glover, when he was around there, was in the habit of carrying a pencil and paper?

A--Yes, that is all he had - a paper and pencil.

Q--Putting things down? A--Well, I do not know whether he put them down or not. He gave up his dental practice to be with my husband, so he must have thought it more profitable than dentistry. That is all he did for about twelve years - paper and pencil.

Q--I do not want you to do any injustice to yourself - when you say that is all he did for twelve years, do you mean that?

20 A--I mean it.

Q--And do you know it? A--Well, I mean it.

Q--I ask you: do you know that he has not been practising dentistry for the last twelve years? A--Well, I know that he was not, because he was with my husband all the time. He could not be working with my husband and doing dental work.

Q--But you might be mistaken about that? A--Well, I don't know about that - he was always with my husband.

Q--He understood his business then until the very last?

30 A--Oh, yes. Of course, he gave up the grocery business, and went into this building.

Q--Didn't he do the work on the property known as the Robertson house? A--Yes, everything down there my husband supervised.

Q--Didn't he buy all the material? A--Well, I do not know about that, but I know that he supervised everything that was done.

Q--And that was only done a year or two before he died? A--Yes.

40 Q--And when he was not doing that, he was a great man to work for himself, and buying material? A--Yes, he worked too hard, but he was happy in his work. I tried to get him not to work so hard.

Q--But he used to buy all his own material? A--Yes, he always ran his own show, only when his brother stepped in and took charge.

Q--Do you know that his brother ever bought any material? A--Well, I do not know anything about it. That is the trouble.

E. Glover, cross-ex Plaintiff

Q--What became of the grocery business and the grocery store? A--Well, he sold that. He never liked the grocery business.

Q--Who did he sell it to, do you remember? A--That is a long while ago -

Q--Well, I have heard - if my friend does not resent the suggestion - I have heard Hugh Cook's name mentioned?

A--I think it was Hugh Cook who bought it - I think so, now.

10 Q--Do you remember being served with any writs when that was being sold, or before that was sold? A--No.

Q--With any papers that was to take away the property from your husband? A--No, I do not know much about it.

Q--Did you ever see a paper that looked like that at all? (Producing) Were you ever served with a paper of that kind? A--No, but I admit that my husband did not tell me much about his business.

Q--I am trying to talk to you about whether you were ever served with a paper like that? A--No, I never was.

20 Q--You never were? A--No.

Q--Do you think you might have been, and you now forget? A--No, I do not think I would forget.

Q--It is an unusual looking sort of paper? A--I never got anything like that.

Q--You could read it? A--I could read it if I had my glasses.

Q--If you got a paper like that, you would be able to read it if you wanted to? A--Yes, I would be able to read it.

30 Q--But you might have forgotten it? A--Well, I admit I am getting old.

Q--But this was only one about ten years ago? A--Well, he was not in the grocery business ten years ago.

Q--Didn't he own the grocery store ten years ago?

A--No, he went into the building business before that, I think.

Q--If I tell you that he did own the grocery store ten years ago and eleven years ago - you would not know that if I did not tell you that? A--No, I would not know. I do not think he had a grocery store eleven years ago.

Q--All right.

40 RE-EXAMINATION BY MR. SMITH:

Q--Mrs. Glover, what was the date of your husband's death again? A--It was December - it was two days after Christmas -- the 27 of December.

Q--What year? A--He has only been dead about two years this December.

I. Samwell, in-chief Plaintiff

Q-- December, 1945, then? A-- Yes.

Q-- That is all, thank you.

---The witness retires.

(Whereupon a short recess was had.)

MR. SMITH: I will call Mrs. Irene Samwell?

---

MRS. IRENE SAMWELL, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH.

10 OF COUNSEL FOR THE PLAINTIFF:

Q-- Mrs. Samwell, you are the Registrar of the Surrogate Court of the County of Frontenac? A-- Yes.

Q-- I have asked you to produce the will of the late Albert Glover. Have you got it there? A-- Yes.

Q-- And you produce it now? A-- Yes.

Q-- That is the original will of the late Albert Glover? A-- Yes.

Q-- And this is a will dated the 2nd of August, 1944. "This is the Last Will and Testament of the late Albert Glover, 20 of the City of Kingston, in the County of Frontenac, retired grocer.

1. I revoke all former wills and other testamentary dispositions by me at any time made, and declare this to be my last will and testament.

2. I nominate, constitute and appoint my brother, Dr. William R. Glover, of the City of Kingston, in the County of Frontenac, as sole Executor and Trustee of this my last Will and Testament.

30 3. I direct that all my just debts, funeral and testamentary expenses be paid and satisfied.

4. I direct that my entire estate, both real and personal, of whatever nature and wherever situate, be given to my said Executor and Trustee, upon the following trusts, that is to say:-

To pay to my wife, Evelyn, the income therefrom during her natural life. On the death of my said wife, Evelyn, to pay her funeral and testamentary expenses.

To give the corpus to my son, Dr. Albert Moore Glover, upon the death of my said wife.

40 IN WITNESS WHEREOF, I have hereunto set my hand at the City of Kingston, this 2nd day of August, in the year of Our Lord One thousand Nine Hundred and forty-four."

and signed, "Albert Glover", and witnessed by William O. Dwyer and Helen B. Papineau.

I. Samwell, cross-ex Plaintiff

Q-- What is the date of the death as given to you? A-- The 27th December, 1945.

Q-- Thank you, very much. A-- I have a copy of the will here.

CROSS-EXAMINATION BY MR. RIGNEY:

Q-- I did not pay any attention, and consequently I do not know whether, in reading the will, my friend called out the names of the witnesses. Who are the witnesses on the original will?

10 A-- Helen B. Papineau, and William O. Dwyer.

Q-- Do you happen to know the signature of the late William O. Dwyer? A-- Yes, I do.

Q-- What do you say as to that being his signature? A-- That is Mr. Dwyer's signature.

Q-- Do you happen to know Miss Papineau's signature as well? A-- No, I do not.

Q-- All right.

20 ---Exhibit Number (12):- Copy of last will and testament of late Albert Glover, dated 2nd August, 1944.

---The witness retires.

---

REUBEN JOHN AUSTIN, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q-- Mr. Auston, have you any experience in valuing property in Kingston? A-- Considerable.

Q-- Do you value property for any firms? A-- Yes, I have been appraising for the Brockville Trust Company for some time.

30 Q-- Did you, at my request, make a valuation of this property in question in this action? A-- I did.

Q-- Will you please look at exhibit two, and tell me if that is the property you made the valuation of? A-- That is the property - those are the properties, yes.

Q-- Now, what have you to say as to the value of that property at the present time? A-- Well, I would put them between seventy-five and eighty-five thousand.

Q-- That is for the whole property? A-- Yes.

40 Q-- And that property consists of what units? A-- Fourteen apartments, five garages.

Q-- Are there five or seven garages? A-- Seven garages.

Q-- And fourteen apartments? A-- Yes, fourteen apartments.

Q-- Have you ascertained the gross rentals? A-- The year's rental is \$10,548.

BY HIS LORDSHIP: Q-- What year is that? A-- Well, that is each year - 1945, and 1946 I suppose.

R. Austin, cross-ex, Plaintiff

BY MR. SMITH: Q-- Those are the gross rentals at the present time?

MR. RIGNEY: Where did he get this information?

THE WITNESS: I got this information from Albert Glover's son.

HIS LORDSHIP: I am afraid that does not help us very much.

BY MR. SMITH: He will be in the box later, my Lord.

10 Q-- In any event, Mr. Austin, that is your valuation of the property? A Yes.

CROSS-EXAMINATION BY MR. GIBSON:

Q-- How do you arrive at the figure of seventy-five to eighty-five thousand? A-- Well, one way is from the revenue, and one way is the construction of the building, the size, and so on. It is a well-built property.

Q-- What is your occupation? A-- I have been in the building business for a number of years.

20 Q-- What do you do? Are you a carpenter? A-- Well, I am a contractor. I was a carpenter before I was a contractor.

Q-- Do you build apartment houses? A-- Yes, I made over a number, such as those in the Glover Estate. I did not build any new ones, but I made over a number, such as the ones in question here.

BY HIS LORDSHIP: Q-- This is an apartment house that has been converted? A-- Yes.

Q-- Are there two apartment houses? A-- Yes, two apartment houses.

30 BY MR. GIBSON: Q-- Are you a bricklayer? A-- No, sir, I never laid a brick.

Q-- Are you an electrician? A-- No.

Q-- Are you a plumber? A-- No, but I have knowledge of all these trades. Carpenter work was my trade before I went into business.

Q-- Why the difference between seventy-five and eighty-five thousand? A-- Well, I would not want to say the even seventy-five or the even eighty-five, but it would be in that bracket.

40 Q-- Why wouldn't you say thirty-five thousand? A-- Because it would not be enough.

Q-- Why do you say so? A-- Because there is more value than that in it, that is the reason.

Q-- How do you arrive at that answer? A-- From the size of the building, the construction, the number of apartments, and the revenue.

R. Austin, cross-ex, Plaintiff

Q-- How big is the building? A-- There is about seventy-five feet frontage, and I do not know what the depth is.

BY HIS LORDSHIP: Q-- What sort of an examination did you make of it? A-- I walked through the building.

Q-- How long a time did you spend? A-- Well, I do not know how long a time. I have been in there a number of times.

Q-- Five minutes or an hour or two hours? A-- I was in a number of times before I was ever called upon to examine it.

10 Q-- Granting that you are qualified to pass judgment and express an opinion on the value, what I would like to know is how long you were in the building inspecting it before you arrived at that valuation? A-- Well, I could not tell you just how long, but I know about what it was worth before it was reconverted, and I know what it would be worth to reconvert it.

Q-- Just what did you do; did you just walk by it? A-- No I went through it.

Q-- How long were you in it, approximately? A-- I suppose an hour or an hour and a half.

20 BY MR. GIBSON: Q-- What is the name of the manufacturer of the heating unit? A-- I think it is a Gurney - do you mean the furnace?

Q-- Yes. A-- I think it is a Gurney.

Q-- Do you know? A-- I do not know whether it is or not. I know they have an automatic heating system in there.

Q-- Do you know how old the big building is? A-- I could not tell you, but I would say it was - I cannot tell you the age of it. I suppose it would be 35 or 40 years old.

30 Q-- You do not know? A-- No, I do not know, but it has not deteriorated. Age has not hurt it.

Q-- Would you be surprised if you were told it was seventy years old? A-- No, I would not be surprised, but I know it is in good condition. A building of that construction does not deteriorate when it is looked after.

Q-- 170 to 172 - what is the top part of that, what construction? A-- I think the top story is shingled on the outside. I know the first story is brick.

40 Q-- What is the second story? A-- I think it is covered with shingles, but I do not know; I could not swear to that, but I believe it is shingles.

Q-- All right.

---The witness retires.

MR. SMITH: I will call Mrs. Albert Glover.

---

K. Glover, dir-ex, Plaintiff

MRS. KATHERINE DEVERY GLOVER, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q-- Mrs. Glover, you are a daughter-in-law of Mrs. Albert Glover, senior? A-- Yes

Q-- How long ago did you first become acquainted with Mr. and Mrs. Glover? A-- Well, I came here to Canada in 1940 - seven  
10 years.

Q-- Did you come to Kingston? A-- Yes, I came to the very house where I am now.

Q-- To the very house? A-- Yes.

Q-- At that time were you married? A-- Yes, we had been married a year.

BY HIS LORDSHIP: Q-- What is that? A-- We had been married a year.

Q-- You had been married a year in 1940? A-- Yes.

BY MR. SMITH: Q-- Now, Mrs. Glover, where at that time were  
20 Mr. and Mrs. Albert Glover, senior, living? A-- They were living there. We were living in the apartment, waiting for the pent house to be available.

Q-- Is that the same apartment that Mrs. Glover has referred to? A-- Yes, the apartment she is living in now.

Q-- And that is in the larger of the two buildings? A-- Yes, 174 - the Glover apartments.

Q-- Who lived there - just Mr. and Mrs. Glover, senior? A-- Yes.

Q-- At that time what was the general appearance and health  
30 of Mr. Albert Glover? A-- Well, he was very old, and sort of doting, and I thought that he was very deteriorated mentally. I had never seen anyone quite that old coming from where I am. He was an old man, and he repeated himself very often, and I thought that he was quite senile, and he was a very old man, who did not think for himself.

BY HIS LORDSHIP: Q-- You say that he struck you as being senile? A-- Yes, he would repeat himself, and tell you the same thing a dozen times, that he had just told you a few minutes previously.

BY MR. SMITH: Q-- Was he doing anything at that time? A-- Well, he looked after the furnace, and then he started building the Robertson house.

Q-- What did he do at the house where you lived; what did he do there? A-- He helped the handyman around, in putting up windows, and helping with the furnace, and collecting rents. He worked very hard.

K. Glover, dir-ex, Plaintiff

Q-- Who made repairs? A-- Well, they called different people in.

Q-- Did Mr. Glover do any repairs? A-- Yes, he did lots of repairs. He did a lot of his own repairs. He was a very handy man. He could do little plumbing jobs, and lots of little things, without calling in electricians and plumbers, and he looked after the furnace. They had people in the basement, but they did not do very much. Mr. Glover was always working.

10 Q-- He was really the manager of the apartment house? A-- Yes.

Q-- Was that true of the apartment 170-172? A-- Yes. Both being a joint cellar, you could find him in the basement at any hour.

Q-- You could pass from one place to the other? A-- Yes, you could go through the tunnel, to our house.

Q-- You are speaking of 170-172? A-- Yes, our house is really 172.

Q-- Later you had an apartment? A-- Yes, at 172.

20 Q-- And you are living in it now? A-- No, we are not living in it for another month.

Q-- Now, as you continued to see Mr. and Mrs. Glover, how did Mrs. Glover seem to be? A-- When I first met her in 1940, she was pretty much as she is now.

Q-- About the same? A-- Yes, although in the past years, being alone, and having these worries, I think she has failed considerably - having been alone a lot.

Q-- And what contact if any did you have with W.R. Glover? A-- Very little.

30 Q-- Did you meet him at all? A-- Yes, on many occasions he has come to the pent house, and I have talked to him, and I have been to his office.

Q-- What did you talk to him about? A-- Well, the very last time I saw him - I went to the pent house on the 31st of May, before I went to Halifax to join my husband, and I went up, and asked him if it was all right if I sublet it. The last time I really spoke to him was in his office on the 31st of May.

40 BY HIS LORDSHIP: Q-- Of what year? A-- Of last year - 1946 - because I left the following day. I told him of my arrangement - that I was subletting from month to month, in the event that I did not like it in Halifax and could not find a place to live, and that is the last time I really spoke with him, was the 31st of May. After that, he would come to the pent house after Mr. Glover died.



K. Glover, dir-ex, Plaintiff

BY HIS LORDSHIP: Q-- I thought he died in 1945? A-- Yes. That is really the last time - a short time previous to that, I spoke with him in the pent house, but the last time I had anything to say to him was on the 31st of May, but - when I went to his office.

BY MR. SMITH: Q-- How long were you continuously in Kingston after coming in 1940? A-- I have lived in the pent house since 1941. That is six years. I lived here alone all through the 10 war, in the pent house.

Q-- How often during that time did you see Doctor W.R. Glover? A-- I would see him occasionally, coming in every Wednesday - he would meet Mr. Glover, and my father-in-law, generally down in the basement in my little room, and I would see him around the place. They were together a lot.

Q-- Did you have any chance to observe Mr. Albert Glover's attitude to W.R. Glover? A-- Well, he was completely under his influence. I never saw two people - he would have done anything for him.

20 BY HIS LORDSHIP: Q-- Give us an example of what you mean? A-- Well, he would never make a decision or anything without consulting his brother, and I cannot understand the fact, that he would take rents from his son and take them down and turn them over to W.R. - the rent cheque was always made out to A. Glover.

Q-- Did he actually take rents from the apartment down to "W. R.", to your knowledge? A-- Yes.

Q-- How do you know that? A-- They were made out to A. Glover, but he never cashed them. I have been to the bank with him on several occasions, and he never cashed them, and he must 30 have taken them down to W.R.

Q-- How do you know that? A-- Well, from the bank manager - that they were never deposited to his credit.

BY MR. SMITH: Q-- You paid your rents to A. Glover? A-- Yes, always.

Q-- Did you always do that - A-- Ever since I have been a tenant. I have always paid my rent to A. Glover.

Q-- And even now- A-- Even the month after he died - January's rent - I took it down and gave it to W.R. Glover - after most of the people had been circularized, saying their 40 rents were to be paid to W.R. Glover.

Q-- Were you circularized? A-- No, I was never circularized.

Q-- Did you see any change in the way the premises were conducted between August 1944 and Mr. Glover's death? A-- In what way?

K. Glover, dir-ex, Plaintiff

Q-- My question is - the quit claim deed is dated some-  
time in August 1944. After that date, was there any change in  
the way the place was conducted? A-- Well, it was not quite the  
same because he was not around.

Q-- Who do you mean? A-- Mr. Glover. There was not  
quite the same care -

Q-- How do you know that he was not around? A-- Well,  
the flowers were not there, and the garden was not looked after.

10 Q-- And where was Mr. Albert Glover? A-- He was dead -

Q-- I mean, after he had died - he was still alive after  
August, 1944? A-- Well, you mean after he signed the quit claim  
deed in July?

Q-- You do not know anything about that? A-- No, that was  
never mentioned, and it was never registered until after he died.

Q-- What I want to do is to find out if you as a tenant  
saw any difference in the apartment after August, 1944, until Mr.  
Glover's death? Did you see any difference around there from that  
time on until that time? A-- No, no change at all, you would never  
20 know anything had taken place.

Q-- Can you give us any - can you recall any incidents or  
any instances where W.R. Glover and Albert Glover were together?  
A-- When they were together?

Q-- Did they go on picnics together, or anything like that?  
A-- Well, they spent, at any time that W.R. Glover could get away,  
and especially on Wednesday. You would see him coming through the  
back entrance. They were together every chance possible, and  
especially in the building of the Robertson house -

Q-- Tell us about this Robertson house. A-- What would  
30 you like to know about it?

Q-- I want to know what Mr. Albert Glover and Mr. W. R.  
Glover had in common over there, if anything? A-- Well, the first  
time I walked around the Robertson house with him - it is about  
four years ago - he told me that he and his brother were going to  
turn it into apartments, and make it over, and they showed me a  
little stable which is now Mr. Wilder's house.

MR. GIBSON: Is that Albert Glover who told you this?

A-- Yes.

MR. GIBSON: That is heresay evidence.

40 BY HIS LORDSHIP: Q-- Is this Albert Glover we are talking  
about now? A-- Yes.

Q-- You cannot tell us what Albert Glover said to you.  
You can say that he showed you around. A-- Yes, that is right.

Q-- When was that? A-- That was about four years ago,  
when he first started, and I asked him if Mrs. Glover knew, and  
he said that she did not know.

K. Glover, dir-ex Plaintiff

BY MR. SMITH: Q-- He showed you what he was going to do with the place? A-- Yes, he said he and his brother were going to make it into apartments.

Q-- He told you his plans? A-- Yes.

Q-- And what was the nature of that? Was it an old house being reconverted? A-- Yes, very old.

Q-- What sort of a house? A-- Well, it is that grey stone house - a real old grey stone house.

10 Q-- What did somebody do, or what did they do? A-- They made it into three apartments.

Q-- Did Mr. Albert Glover work on it? A-- Yes.

Q-- For how long? A-- They took about a year to complete it. I went to New York, and when I came back, it was completed.

BY HIS LORDSHIP: Q-- What year were you in New York?

A-- That was in 1943.

Q-- What property is that? A-- I think it is called Rosemount. That is the name of the apartment.

BY MR. SMITH: Q-- Is that what the property is called?

20 A-- Yes, it was the old Robertson house, and they have given it that name.

Q-- Do you know of any other work that Mr. Glover was doing when you came back from New York? A-- The stable. That is now Mr. Wilder's property.

Q-- That is, the stable was reconverted into a house?

A-- Yes, into a one-family house.

Q-- And you say Mr. Albert Glover was working at that?

A-- Yes.

30 Q-- How long was he engaged in that? A-- About six months to a year, but that was during the war. He could not get help.

Q-- That is what he was occupying himself at then?

A-- Yes.

Q-- Do you remember what he was doing in 1944? A-- Working on that property - on the Robertson house.

Q-- He was still working there in 1944? A-- Yes.

Q-- And what was his health like in the summer of 1944?

A-- His health was good. It was just that I thought that he was sort of, you know, senile and doting.

40 Q-- Can you give us any other reason for your belief along this line? A-- Well, when he would be talking with you, he would keep repeating himself. He would tell you something, and go back over it over and over again.

K. Glover, dir-ex, Plaintiff

BY HIS LORDSHIP: Q-- Can you give us any example? Can you go back and see if you can think of any occasion on which he repeated himself, and what he was talking about? A-- Yes, he would keep talking about Stalin, and tell you something that he had said, and three minutes later he would repeat it, and tell you the same thing, and repeat it over again. He was a great admirer of Stalin, and he would go all over it again as if it were the first time.

10 BY MR. SMITH: Q-- You had to humour him? A-- Yes.

Q-- Was there anything else? A-- Well, the thing that impressed me very much - the association with his brother was that he never did anything without consulting him. At all times, he thought of him, and he was completely under his influence.

Q-- He consulted his brother about everything? A-- Yes, about everything.

20 Q-- You were living in the house next door, were you, at that time? A-- No, I only lived there about seven months, until March, until the Ryans left, and then we moved in, and it was our first home.

Q-- Where were you in August of 1944? A-- In August of 1944 I was in the pent house at 172.

Q-- Did you ever hear any inkling of any business mentioned at that time? A-- No, never; I did not know anything about going down to Dwyer's that summer.

Q-- Is there anything else you can tell us -

30 BY HIS LORDSHIP: Q-- You are speaking about legal business? Did you ever hear any mention in August, 1944, about any legal business that Mr. Glover and his wife were interested in? A-- No, they have never spoken about anything, and Mr. Glover has never mentioned it. He never came to me about anything until after Mr. Glover -

BY MR. SMITH: Q-- Any legal business of any sort? A-- No, it was never mentioned. He was always very secretive. At that time I was living alone in the pent house, where I am now.

40 Q-- Did you see Mr. and Mrs. Glover from time to time? A-- Oh, every day. I was living next door to them, because I was alone, and I would run over, and they would come over now and then, and have dinner with me.

Q-- There was never any mention of any business matters? A-- No, I never heard anything about it at all.

Q-- And you continued throughout the period of 1943, 1944, and 1945, to pay your rent in the same manner? A-- Yes.

Q-- No change in the method of paying rent? A-- No, I always paid out my rent cheque to my father-in-law, A. Glover.

K. Glover, dir-ex, Plaintiff

Q-- No change took place in the janitor, or in the way that the house was operated? A-- No, there was never any change at that time at all. There has been since.

Q-- The only changes are since Mr. Glover's death? A-- Yes, that is the only noticeable changes.

BY HIS LORDSHIP: Q-- Do you mean a noticeable change in the appearance of the building? A-- Well, in the people in the building - people out, and new people in, since he died, and a  
10 new janitor. The Hinks have been living in the building about seventeen years, and then after Mr. Glover died, the Comptoms came in, and they are living in there now. They are relatives of the Glovers. They are distant relatives.

BY MR. SMITH: Q-- And they were then the janitor? A-- Yes, the Comptoms replaced the Hinks.

Q-- Were there any other changes that you can recall? A-- No, nothing that I would notice, really. Those are the only changes you would have noticed - people moving out after they have been there so many years.

20 Q-- Is there anything else you can tell us with regard to W.R. Glover or your father-in-law? A-- No, I do not think so. I think I have told you pretty much, Mr. Smith -

Q-- All right.

CROSS-EXAMINATION BY MR. GIBSON:

Q-- I think you told my learned friend that Doctor Glover used to see his brother Albert Glover, your father-in-law, especially on Wednesday afternoons because it was a medical holiday? A-- Yes.

30 Q-- To your knowledge, was Doctor Glover practising dentistry? A-- Oh, yes, he was always in his office. He was around. I do not know if he was practising or not. He kept office hours, because at any time I went there, he was in his office.

Q-- Were there patients in the office? A-- Well, I usually met his nurse.

Q-- Were there patients in the office? A-- No, I did not see any the last time I was there.

BY HIS LORDSHIP: Q-- He had a nurse in his office? A-- Yes.

BY MR. GIBSON: Q-- To your knowledge, is he practising  
40 dentistry? A-- Well, he must be, or he would not -

Q-- To your knowledge, is he or isn't he? A-- I think he is a dentist, yes.

Q-- And is practising? A-- Yes.

Q-- And has been practising? A-- As far as I am concerned, he has been. I have been there.

K. Glover, cross-ex, Plaintiff

Q--There is no question about that? A--Yes.

Q--Did he do any work for you? A--Yes, that is why I know.

Q--When? A--About four years ago.

Q--About four years ago? A--Yes.

Q--He has got a regular office, hasn't he? A--Yes.

Q--A chair and all the instruments? A--Everything.

10

Q--He has a nurse to assist him, hasn't he? A--Yes.

Q--And he has had that nurse for quite a number of years? A--Yes, I imagine so.

Q--You say on Wednesday afternoons the doctor used to come up and see his brother? A--Yes.

Q--And they used to - just consult each other? A--Yes, they had their little meeting downstairs in the basement, or else they would go out in the country in the car.

Q--Were you with them? A--No, I never went with them.

Q--So you do not know what they were discussing do you?

A--Well, no, naturally.

20

Q--Did Doctor Glover ever discuss any of his business with you? A--No, he would have no reason to discuss business with me. He did all of that with Mr. Glover.

Q--Did your father-in-law ever discuss his business relations between himself and Doctor Glover with you? A--Never. Any discussing he did, he did it all with his brother. He never discussed anything with anyone.

Q--Did he tell you how much anyone was going to pay for the Robertson house? A--He said they were partners.

30 Q--Who? A--He and his partner. He said, "We are building this together."

BY HIS LORDSHIP: Q--You thought that they were partners? A--He told me -

Q--Mr. Glover? A--Yes.

BY MR. GIBSON: Q--Did he say how much money was in it? A--No, he did not mention any figures. He just said, "We are building this together."

Q--He showed you this stable that you spoke of? A--Yes.

Q--What year was this that he showed you it? A--1944, I think it was -

40

Q--What did he show you about it? What kind of a stable was it, first of all? A--A very pretty little house after I saw it. I never knew it was a stable. When I saw it, it was almost a finished home.

Q--Did he tell you how it was done? A--Yes.

Q--And did he go into any details? A--Yes.

K. Glover, cross-ex, Plaintiff

Q--What did he say? A--He told me how hard it was to get help, and how he was going to lay the tile in the lobby.

Q--How did he tell you that? A--He told me the colour scheme he was going to have.

Q--And what else did he say? A--And then -

Q--Just about the tile? A--He said that he was going to get a little electric grate for it, to set in the fire place, and I sent away for two; I got him one and I got one.

10 Q--Was there a fire place at that time? A--Yes, in the living room.

Q--Did he tell you how they had built the fire place?

A--No, he did not say much about it - only that it was not going to be a real one.

Q--It was rather cleverly camouflaged? A--Well, I would not say so.

Q--Did he say anything about how difficult it was to get materials? A--No, not so much about the material as it was about the help.

20 Q--What did he say about help? A--It was twice as expensive to build, because of doing it with day labourers.

Q--It was difficult to get day labourers? A--Yes, help.

Q--Did he tell you why it was difficult? A--Well, I guess most of the skilled help were away in the war.

Q--Did he tell you that? A--Yes, he told me. He said, "There is a shortage of help, and it is hard building it this way. It takes twice as long, and twice as much money."

Q--And he told you it was difficult to get the men?

A--Yes.

30 Q--Did he tell you anything else about this house?

A--No, nothing much - I saw it once myself -

Q--Did he tell you who made the plans for it? A--Yes, he told me how he submitted them.

Q--They were his plans? A--Yes.

Q--Did he draw them? A--Yes, he must have. He told me that he did not need an architect. He said, "I drew them."

Q--That was the plans to convert it from the stable into the house? A--Yes.

Q--And you saw almost the finished product? A--Yes.

40 Q--And you say apparently you could not have told it was a stable before unless you had been told? A--Yes, because it was so pretty.

Q--What rooms are there in the house? A--It is about a seven-roomed house. It is a pretty compact little modern home.

Q--Did he show you through the house? A--Yes, through every inch of it, and especially when it was finished.

K. Glover, cross-ex, Plaintiff

Q--When was it finished? A--In 1944 or 1945, I think.

Q--And he showed you through it when it was finished?

A--Yes.

Q--Did he tell you anything about the various rooms? You were upstairs? A--Yes, I was upstairs.

Q--Did he tell you anything about the upstairs?

A--There was nothing to tell me -

10 Q--Was there anything in particular about the upstairs - anything that was done to it that you recall, that was discussed?

A--Well, everything had been done to it - there was not anything - nothing said that impressed me, only that -

Q--Did you ever see the plans? A--No, I never saw the plans. I did not go into detail with him. I just listened to him. I thought it was a pretty little house, and I have gone through with him, with people who wanted to buy it.

Q--Did he quote any price to anybody? A--Yes.

20 Q--What price did he quote? A--I think it was ninety-five hundred, when he took Mr. Stacey through, and he kept the price up. He never wavered in the price.

Q--When did he go through with Mr. Stacey? A--On a Sunday afternoon. Mrs. Stacey called me and asked me if they could go through the house.

Q--When was that? A--That was about six months before the Wilder's bought it - who are now living in it.

Q--When would that be? A--I was not here when the Wilders moved into it.

Q--When did you go away? A--A few months before that.

Q--Was it in 1945? A--Yes.

30 Q--So you think it was in 1945? A--It was in the spring - the snow was melting -

Q--The spring of 1945? A--No, 1944.

Q--The spring of 1944 you took them through? A--Yes.

Q--And Albert Glover wanted ninety-five hundred dollars for the place? A--Yes.

Q--And he would not come down from that? A--Yes, that is right.

40 Q--What did he say to them? A--Well, I went over and asked Mr. Glover if he would go down to Mr. Stacey's car, and that he was interested in the house, and I got in the back seat with Mr. Glover, and we went through, and Mr. Stacey was very impressed with the house, but he could not get all of his furniture in the low ceiling, and he was not interested - the money was a little too high.

Q--Did he tell that to Mr. Glover? A--Yes, he said, "That will cost me another thousand dollars, to change it." He said, "I will have to make a lot of changes, and I do not think I can get all my heavy pieces of furniture in there."



K. Glover, cross-ex, Plaintiff

Q--What did Mr. Glover have to say about that? A--He was not interested in going into detail; he wanted ninety-five hundred dollars.

Q--And he was not going to take anything less? A--And that is why Mr. Stacey thought it must have been his house, or he would not have worked so hard -

Q--Do you know what it was sold for? A--That price.

Q--For that price? A--Yes.

10 Q--By whom? A--Mr. Wilder bought it.

Q--And who sold it to him? A--He bought it from W. R. Glover.

Q--W. R. Glover was the vendor? A--Evidently, he received the cheque for it, anyway.

Q--Do you know how the deed was made out? A--I did not know anything about that.

Q--It was paid to W.R. Glover, anyway. You know that? A--Yes.

HIS LORDSHIP: When was this.

20 BY MR. GIBSON: Q--When was this? A--At the time that Harry Wilder bought it, in 1944 or so.

Q--Were you here then? A--I was living where I am now, but I was not there to find out how they transacted their business.

Q--How do you know how the cheque was made out? A--Mr. Wilder told me that he bought it from W.R. Glover. He said that he bought it from W.R. Glover.

Q--Did he tell you that the cheque was made out to W.R. Glover? A--Yes.

30 Q--Why would he tell you that? A--I don't know, but he was impressed with the fact that he kept the price up, and he thought that Mr. Glover must have had a financial interest in it.

Q--That who was keeping the price up? A--Well, W. R.-- Albert Glover. Mr. Albert Glover showed him through the house to buy it.

Q--Who was keeping the price up? A--Albert Glover, my father-in-law.

Q--He was keeping the price up? A--Yes.

40 Q--That is what Mr. Wilder told you? A--Yes, that is why he could not understand it, if he did not have a financial interest in it.

Q--I have understood that - where do you come from, anyway? A--In New York.

Q--Do you say there are not any old people down there? A--Well, you do not see them - they are not active when they are really old like that - working that hard.

Q--And you were rather surprised to see people active up here? A--Not necessarily.

K. Glover, cross-ex, Plaintiff

BY HIS LORDSHIP: Q--They make their money earlier in life down there; is that right? A--Yes, and they go south in the winter.

BY MR. GIBSON: Q--I think you told my friend that when you were moving out of the apartment which you described as the pent house, you had spoken to Doctor W. R. Glover? A--I never moved out of the pent house.

Q--Didn't you sublet it? A--Yes, I sublet it.

10 Q--And you spoke to Doctor W. R. Glover about it? A--I went to his office on the 31st of May.

Q--Did you speak to him about it? A--Yes, I went to him on the 31st of May, 1945, and I told him I was subletting.

Q--Why did you tell him? A--It was really 1946--it was last May.

Q--It was the 31st of May, 1946? A--Yes, it was last spring. I told him I was leaving the following day for Halifax.

Q--Why did you tell him? A--Well, I thought I should.

20 Q--He was your landlord, wasn't he? A--Well, I had never been circularized - he was not really - but he was to the other tenants.

Q--And the other tenants were in the same building; isn't that a fact? (No answer)

Q--And the other tenants in the building were - Doctor Glover was the landlord of the other tenants in the building? A--Well, who would I go to at that time to ask? I would have asked Mr. Glover if he had been there - my father-in-law.

BY HIS LORDSHIP: Q--You were paying the rent to him after Mr. Albert Glover died? A--I wanted to ask him about that - if I should continue paying to my mother-in-law - and he gave me a nod, that is all. There was just a verbal understanding. -

Q--In other words, he wanted you to continue paying the rent to Mrs. Glover? A--Well, that is what I thought -

Q--You are going back in there now? A--Yes, we just sublet from month to month.

BY MR. GIBSON: Q--Just a few weeks ago, did you have a conversation with Doctor Glover? A--Doctor W. R. Glover, a few weeks ago?

40 Q--Yes, did you? A--I have not see him at all.

Q--Have you been speaking to him in 1947? A--Only on the telephone.

Q--And about when was that? A--That was one night a week ago.

Q--What did you say to him? A--I said I would like to see him.

Q--Was there anything else said? A--Nothing at all.

Q--Nothing at all? A--No.

Q--Did you speak to the present tenants, in that apart-

K. Glover, cross-ex, Plaintiff

ment a couple of weeks ago? A--About what?

Q--About asking them to vacate in March? A--I gave them their notice - as we have a month to month agreement.

Q--Did you speak to them? A--I spoke with them, and then sent them a notice.

Q--Did you tell them that Doctor Glover has said it was all right for them to get out on the 31st of March or something like that? A--I never mentioned Doctor Glover, because, after  
10 all, I sublet -

Q--You never mentioned Doctor W. R. Glover's name to them? A--No, I didn't, because I sublet to them, and he never entered the picture at all.

Q--Who were the tenants' names? A--Mr. and Mrs. William Mason.

Q--When you spoke to Mr. Mason - did you speak to Mr. Mason? A--Yes. I told him I would like the apartment in one month, and he said, "I would like it written," and I said, "I  
20 will have it drawn up for you, and bring it to you tomorrow."

Q--Did you speak to Mrs. Mason? A--They were both there, and I had it drawn up the following day, and sent by registered mail.

Q--And you never said anything to them about Doctor W. R. Glover? A--Why should I mention his name?

Q--The question is: Did you or did you not mention his name? A--I never mentioned his name in regard to the apartment.

Q--You never mentioned his name? A--No, never.

Q--You never suggested you had his concurrence? A--I never mentioned his name. I never mentioned his name. It is my  
30 apartment. I had nothing to do with Doctor Glover.

Q--You say that Albert Glover, your father-in-law, used to do a bit of everything around the apartment? A--Yes, he worked very hard.

Q--You say that he did a little bit of plumbing? A--He could do anything in an emergency.

Q--And he did, didn't he? A--Lots of little jobs.

Q--He was really quite a handy man? A--Yes, when things would come up, instead of calling someone, he would go ahead and  
40 fix it.

Q--Whether it was electrical work or plumbing work?

A--Yes.

Q--Carpentry work? A--Not so much carpentry work - but emergency repairs.

Q--He was pretty good at that? A--I thought that he was.

Q--Was there any other male janitor? A--Yes, Mr. and Mrs. Hinks had been there for seventeen years. They lived in the basement, where the Comptons are now, and they were asked to leave after Mr. Glover's death.

K. Glover, cross-ex, Plaintiff

Q--Wasn't your father-in-law really the main janitor? Didn't he do most of the work? A--Well, he had a couple in the basement, and he had them for years.

Q--When the real work was done, he did it? A--He looked pretty much after everything, but there was a couple in the basement.

Q--Did he look after this, to your knowledge, until you went away in 1945? A--After what?

10 Q--After the building? A--Well, he supervised everything - I was only there a month -

Q--Did he do it there after you came back? A--Yes, always. Up until the time that he died, he worked hard around the place.

Q--How long was he sick just before he died? A--He was sick about a week, really sick. He had a cerebral accident.

Q--Are you a nurse? A--No, sir.

Q--Have you any medical qualifications? A--No.

BY HIS LORDSHIP: Q--Do you mean that he was confined to the house for a week? A--Yes, and then he went to the hospital  
20 for a few days, and then came back, and then died at home.

MR. GIBSON: All right, thank you.

---The witness retires.

---

ROBERT S. REID, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q--Mr. Reid, did you know the late Albert Glover?

30 A--I did.

Q--How many years had you known him? A--Well, about fifteen or sixteen years.

Q--Fifteen or sixteen years. Did you know him well?

A--Well, pretty well.

Q--Pretty well, and will you tell me whether you saw him around often; did you see him around often? A--well, nearly every day. I just worked over the fence.

BY HIS LORDSHIP: Q--Were you neighbours? A--No, I took care of the school next to their apartment.

40 Q--And you say you used to see him nearly every day; is that right? A--Yes, for about twelve years.

BY MR. SMITH: Q--Would that be the twelve years before his death? A--I beg your pardon?

Q--Would that be the last twelve years of his life?

A--The last twelve years that I was at the school.

Q--That does not really help us. How many years since before Mr. Glover died do you refer to? He died in 1945, in December - at the end of 1945? A--Well, I had not seen him in the last four years.

Q--Not in the last four years? A--No.

R. Reid, dir-ex, Plaintiff

Q--So it was twelve years prior to the last four?

A--Prior to the last four years.

Q--Now, when you last saw him about four years ago, what was his health and mental condition? A--Well, I could not say as to that.

Q--You could not say as to that? A--No.

BY HIS LORDSHIP: Q--Do you mean that up until the time you last saw him he was always the same? A--Yes, he was always  
10 the same.

BY MR. SMITH: Q--You did not change - you did not notice any change in him - A--In the last four years, I did not know whether there was any change in him, because I did not see him, not very often.

Q--Do you know anything about his relations with his brother, W. R. Glover? A--Well, I think they were pretty thick.

Q--Did you see them around together quite a bit? A--Oh, yes, quite often.

20 Q--Did Mr. Albert Glover give you any reason to think that? A--Well, he used to say that he was strictly honest - an honest man - his brother's word was as good as his bond.

Q--His brother's? A--Yes, his brother's word was as good as his bond.

Q--You would gather from that that he had considerable trust in his brother? A--I would gather from that that Mr. Glover was an honest man.

BY HIS LORDSHIP: Q--Mr. or Doctor? A--Well, Doctor Glover.

30 BY MR. SMITH: Q--Did the brother ever tell you anything more about their dealings? A--No, he did not mention their business.

Q--You really do not know anything about their business relations then? A--No.

Q--But you know they were together frequently? A--Yes, certainly, they were together. They were like brothers.

Q--Like brothers? A--Yes.

Q--Well, they were really close brothers? Some brothers are not close.

40 HIS LORDSHIP: Well, he means "like brothers" the same as "sober as a judge."

MR. SMITH: All right.

MR. GIBSON: No questions.

(No cross-examination.)

---The witness retires.

HIS LORDSHIP: We will adjourn now until tomorrow morning at ten o'clock.

A. Glover, dir-ex, Plaintiff

(Whereupon the further proceedings were adjourned at five o'clock P.M., on the 19th of February, 1947, to resume at ten o'clock A.M., on the 20th of February, 1947)

(On resuming at 10 o'clock A.M. of the 20th of February, 1947)

HIS LORDSHIP: Very well, Mr. Smith.

MR. SMITH: I will call Doctor Glover.

10

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DOCTOR ALBERT MOORE GLOVER, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q--Doctor Glover, you are a son of the late Albert Glover? A--Yes, sir.

Q--You are his only son? A--Yes.

Q--His only child? A--Yes, sir.

20 death? Q--How old a man was your father at the time of his A--Seventy-nine.

Q--What sort of health was he in?

HIS LORDSHIP: When did he die?

BY MR. SMITH: Q--What was the date of death, Doctor? A--The 23rd of December, 1945.

HIS LORDSHIP: It was given as the 27th.

WITNESS: That is not correct.

HIS LORDSHIP: That is not correct?

WITNESS: No.

30 BY MR. SMITH: Q--Do you remember the 23rd?-- It should be the 23rd? A--That is right.

Q--What was his health just prior to his death, Doctor?

BY HIS LORDSHIP: Q--You are a medical doctor, are you? A--Yes, sir.

Q--A graduate of what university? A--Queen's.

Q--What year? A--1934. Well, he was not at all well. I mean, he was quite senile, short of breath. His eventual catastrophe was cerebral accident.

A. Glover, dir-ex, Plaintiff

BY HIS LORDSHIP: Q-- Do you mean that was the cause of death? A-- Yes.

Q-- What does that mean? A-- Well, a stroke.

BY MR. SMITH: Q-- And that in plain language means a stroke? A-- Yes.

BY HIS LORDSHIP: Q-- I am particularly concerned about his condition at the date of the disputed quit claim deed.

MR. SMITH: I am coming to that in a moment, my Lord.

10 BY MR. SMITH: Q-- What physical condition does that indicate to you, Doctor? A-- Well, it is a type of arteriosclerosis - hardening of the arteries.

Q-- What is arteriosclerosis? A-- Hardening of the arteries.

Q-- Does that change a man physically? A-- Yes, sir.

Q-- As to movements, and reactions, and so forth?

A-- Yes.

20 Q-- What affect has it on a person? A-- Well, in my father's case, he became quite senile, which he has been for four or five years, I think.

BY HIS LORDSHIP: Q-- For four or five years before he died? A-- Yes. I was overseas, of course, and when I came back, he was much worse.

BY MR. SMITH: Q-- You were a doctor overseas, were you? A-- Yes.

BY HIS LORDSHIP: Q-- You were overseas from when?

A-- From July, 1942, until August, 1945.

30 Q-- You could not say anything about his condition from your own personal observation then between those dates? A-- No, not between those dates, sir.

Q-- Well, I am interested in what his condition was, according to your observation, before you went overseas, in July, 1942, and the condition which you found him after you returned in August, 1945? A-- Well, in 1942, I was here for one year, stationed in Kingston, from 1940 to 1941, and then I was in Brockville, and I used to see him occasionally on the week-ends, and so forth, and at that time he was quite senile.

BY MR. SMITH: Q-- And that was 1942? A-- In 1942, just prior to going overseas.

40 Q-- And how was that manifested? A-- Well, he had terrific temper tantrums and very argumentative about little things that were of no consequence, and he was living in the past mostly - he was living forty or fifty years ago.

A. Glover, dir-ex, Plaintiff

Q-- What interest did he take in matters around him?

A-- Well, he went about his business all right. I mean, he was not a menace to society, or anything like that.

Q-- Was he interested in what was going on? A-- Not as he should have been.

BY HIS LORDSHIP: Q-- What do you mean by that?

A-- Well, I mean, he was more interested - he was always talking about duck shooting, which he has not done for years, and riding  
10 horse back, which he has not done for years.

Q-- What did he say? A-- Well, that was his chief topic of conversation.

BY MR. SMITH: Q-- He talked about the past? A-- Yes.

BY HIS LORDSHIP: Q-- A man might talk about duck-shooting that he had not done for years and talk about horse back riding that he has not done for years; what is the significance of that?  
A-- Well, that was his chief topic of conversation.

BY MR. SMITH: Q-- He talked about those things to the exclusion of ordinary every-day matters? A-- Yes, he gave up  
20 his church, and became quite bitter along those lines, which was unusual for him.

BY HIS LORDSHIP: Q-- What time did he do that? A-- Well, I should say four years ago. He used to go twice a Sunday, and he absolutely stopped going.

BY MR. SMITH: Q-- He had been a strong churchman?  
A-- Yes, he went regularly.

Q-- Did he give it up absolutely? A-- Oh, absolutely.

Q-- What did you notice about him on your return from  
30 overseas, if anything? A-- Well, that very thing had increased - at that time, he had a bug on Russia. He was not a Communist, or anything, but just what he read in the papers - that her effort was greater than anybody else's, and you could not get him off the subject once he got on it. Friends of mine told me that they would avoid him on the street.

HIS LORDSHIP: I do not think, Doctor, you are qualified to give opinion evidence, but in any case you cannot tell us what other people told you. You might, if you were an expert giving an opinion, pass on what other people told you.

THE WITNESS: Well, I avoided him myself, because it was  
40 monotonous to listen to this harangue.

BY MR. SMITH: Q-- Do you mean, Doctor, as you have said, that he got off on a tangent? A-- Yes.

Q-- And it developed into a monotonous harangue? A-- Yes, he would repeat himself. He would tell you something today, - he would probably tell you in the morning, and in the afternoon, and probably the same thing tomorrow.



A. Glover, dir-ex, Plaintiff

Q-- What sort of thing? A-- Well, some anecdote, or almost anything - nothing very interesting.

BY HIS LORDSHIP: Q-- Do you remember any one thing, where he told you two or three times over, and what it was that he told you? A-- Well, one thing that he told me a hundred times, I guess, was the time that he went duck-shooting at Ober Lake Bridge - he would start off on that and end up with something else, and would not carry it through at all.

10 BY MR. SMITH: Q-- What effect has arteriosclerosis on a person's physical system and body? A-- Well, if -- it carries a high blood pressure, which is usually with headache, due to the pressure on the brain, and also these dementia symptoms that go with it, if it is great enough.

BY HIS LORDSHIP: Q-- The dementia symptoms consisting of what? A-- Well, childishness, particularly. It is what used to be called second childhood.

BY MR. SMITH: Q-- How would that affect the ability to reason and the will? A-- Well, very greatly.

20 Q-- It would affect it greatly? A-- Yes.

Q-- In what way? A-- Well, I mean, he might think something now, and think the opposite thing half an hour from now.

Q-- No stability of thought or mental attitude? A-- That is right.

Q-- Would that affect his mental attitude towards other persons that he knew? A-- Well, definitely, yes. Latterly, he just neglected mother altogether, except to sit down at the table, and sometimes he just sat there and not speaking, and at other times he would ramble on with stories.

30 Q-- While we are on the subject of your mother, has your mother any means of any description? A-- No.

Q-- None whatever? A-- None at all.

Q-- You say that he neglected her? A-- Yes. I mean, he would not consider her pleasure at all. If he wanted to go out and do something, he would just go and do it, that was all. He would never ask her if she would like to do something.

BY HIS LORDSHIP: Q-- Those are generalities. What I am trying to find out is the condition of the man's mind at or about the time or before the date of this disputed conveyance. I wish  
40 you would keep the witness to that period of time as much as you can, Mr. Smith.

Q-- You say latterly he neglected your mother, and never considered her. Was that any different from what he had been in the habit of doing at a prior time? A-- Yes, sir.

Q-- When was it? A-- That was longer than four or five years.

Q-- When did that different treatment of your mother develop, to your knowledge? A-- Roughly, about five years ago.

A. Glover, dir-ex, Plaintiff

BY MR. SMITH: Q-- About 1942? A-- Yes, or before that even - perhaps in 1941.

Q-- In 1941? A-- Yes.

Q-- Well now, tell us as much as you can about that, Doctor, so -

HIS LORDSHIP: Your mother had no means - her will has been put in, but I know nothing so far about -

MR. SMITH: It was the father's will that was put in.

10 HIS LORDSHIP: Yes, but I know nothing about the value of his estate. Do you propose to adduce evidence as to that?

BY MR. SMITH: Q-- Do you know if your father had any estate, Doctor? A-- Well, I always understood that he had the apartment buildings.

Q-- But did he have anything else except the apartments?

A-- No, that is all.

Q-- That is all he had? A-- Yes.

BY HIS LORDSHIP: Q-- All your father had was this property which is in question in this action; is that right? A-- That is  
20 right.

BY MR. SMITH: Q-- There were a few little odds and ends of refrigerators and stoves in the apartment that might not pass under a quit claim deed, were there, Doctor? A-- Yes.

Q-- There would be a question, I suppose, as to whether they were attached to the freehold or not? A-- Yes.

Q-- But that is all he had in worldly goods, as far as you know? A-- Yes

Q-- That was his whole estate? A-- Yes.

30 Q-- And your mother had no estate of her own? A-- No, nothing at all.

Q-- She has nothing of her own? A-- No.

Q-- Now, Doctor, what do you know as to the relations between your father and W. R. Glover, your uncle? A-- I know they were very thick, so to speak.

Q-- Yes. Well, develop that - in what way? A-- Well, they always got together, and so forth, on various occasions.

Q-- Yes. A-- And they would go driving in the car together, or something like that.

40 Q-- I suppose - did they see each other frequently? A-- Yes.

Q-- I suppose you were with your father and your uncle came along - did that ever happen? A-- Yes, it has.

Q-- Would the uncle join in? A-- No, they would generally crawl off into a corner somewhere.

Q-- You mean, the father would go away with the uncle? A-- That is right.

A. Glover, dir-ex, Plaintiff

BY HIS LORDSHIP: Q-- In other words, they would dispose- they would discuss business matters together in your absence, would they? A-- Yes.

BY MR. SMITH: Q-- Did they ever discuss business matters when you were present, Doctor? A-- No.

Q-- Had you ever any reason to believe that your father did not own the apartments? A-- No, sir.

Q-- Had you any reason to believe that he did own them?  
10 A-- Yes, he spoke as though he did.

BY HIS LORDSHIP: Q-- That is, up to the time of his death? A-- Yes.

Q-- You would be overseas, would you, at the time of his death? A-- No, I was here at the time of his death.

BY MR. SMITH: Q-- What month did you get back? A-- I got back in August, 1945.

Q-- You were here from August to December? A-- Yes.

Q-- You saw him for those months? A-- Yes.

Q-- Part of August, September, October, November, and  
20 most of December? A-- Yes.

Q-- What change had there been in him since you had left; did you notice any change in him from the time you had gone overseas? A-- Yes, his symptoms, so to speak, had increased. I mean, he was much more argumentative, and so forth.

Q-- How did he occupy his time? A-- He browsed around the building.

BY HIS LORDSHIP: Q-- Well, that is not all he did, is it?

BY MR. SMITH: Q-- Did he do anything else at that time? A-- Well, he did some odd things - we had a handy man who did  
30 most of the work.

HIS LORDSHIP: What did he do himself?

BY MR. SMITH: Q-- Tell us what your father did, as far as you can, Doctor? A-- Well, he supervised the running of the buildings. He collected the rents - I do not know that he collected the rents after I came home, because I did not see much of that.

Q-- You do not know whether he was collecting the rents or not? A-- No, but the cheques were made out in his name.

Q-- The cheques always made out in your father's name?  
40 A-- Yes, and all I know is that he endorsed them.

BY HIS LORDSHIP: Q-- That is, after you came back? A-- Yes, sir.

BY MR. SMITH: Q-- Did your father take your opinion on matters? A-- He never asked it.

A. Glover, dir-ex, Plaintiff

Q-- He never asked it? A-- No, sir.

Q-- Would he take anyone's opinion? A-- I don't know that, sir.

Q-- You do not know that. Well, was he as close to you as he was to W. R., for example? A-- Oh, no.

Q-- He was not? A-- No.

Q-- Would you say that he was closer to "W. R." than he was to you? A-- Yes; sir.

10 Q-- Well now, can you develop that at all? A-- Well, I always thought that he had a fear of W. R.

Q-- That he had a fear of him? A-- For this reason - I mean - should we have plans to do anything, for instance, go out in the car, and W. R. called him later, he would go with W. R.

Q-- You mean, instead of going along with you? A-- That is right.

Q-- Can you think of any instance where that happened, Doctor? A-- Well, it has happened in several cases.

20 BY HIS LORDSHIP: Q-- Give us one example. A-- Well, this is before I went overseas that I am speaking of now - he told mother and I to get ready, and we would take a drive in the country, and the 'phone rang, and he said, " Oh, W. R. wants me to go somewhere in the country, and I am going with him," and he went with W. R.

Q-- And he went with W. R.? A-- Yes.

Q-- And left you to go on the expedition alone, is that right? A-- Yes.

Q-- So he was more concerned with what W. R. wanted him to do, as evidenced by that, than what you wanted him to do?

30 A-- Oh, definitely.

Q-- Can you tell us anything more about that - any other instance that you can think of that might make that clearer?

A-- Well, I cannot think of anything right now. However, that has happened on several occasions - that very same thing.

Q-- What was your father's attitude towards the apartments over there? Was he interested or disinterested? A-- Well, he was very interested.

40 HIS LORDSHIP: At what time are we speaking about? What time was this you referred to? A-- Well, I am speaking more now of before I went overseas.

Q-- And he was interested? A-- At least, he was always around.

BY MR. SMITH: Q-- He had gone out of the grocery business, and was devoting himself to the apartments at that time? A-- That is right.

Q-- And was that his sole activity, his sole interest?

A-- Yes.

Q-- It was his sole interest? A-- Yes.

Q-- Did he seem attached to the premises? A-- Oh, very

A. Glover, dir-ex, Plaintiff

much so - it seemed to be his love and joy. He built them or supervised the building of them.

Q-- Did he take a pride in showing people these apartments? A-- Oh, definitely.

Q-- And did he ever discuss with you what he had in them or his interest in the apartments, or anything along those lines?

A-- Not for quite some time. I mean -

Q-- Did he use to, years ago? A-- Oh, yes. Well, we  
10 always just took it for granted that they were his.

Q-- Did he make improvements to them? A-- Yes, he converted - some of them were large apartments, and they were converted into, say, two small ones, which he designed himself.

Q-- Take your own house, for example, where you grew up as a boy. Was that converted - did he convert that into an apartment house? A-- Yes.

Q-- Did he direct that himself? A-- Yes.

Q-- Did he take an interest in it? A-- Yes.

Q-- When was that done? A-- That was done, roughly,  
20 1934, because I was still going to college.

HIS LORDSHIP: Where was that house?

BY MR. SMITH: Q-- The house is on the corner of Earl and West, is it not? A-- Yes, 170 or 172.

Q-- Then did he design the laying out of that house into apartments? A-- Yes, sir.

Q-- And he designed a sort of pent house on the top, did he not? A-- Yes.

Q-- And I also remember that he reconverted the store into apartments, did he not? A-- Yes, over the store.

Q-- He was very keen about apartments, wasn't he?  
30 A-- Yes, sir.

Q-- And how long was he out of his business - for how many years before you went overseas? A-- Out of which business?

Q-- When did he stop the grocery business? A-- I am not sure of that date.

Q-- You are not sure of that date? A-- No, sir.

Q-- Was he working at all at anything when you returned from overseas? A-- Not any more than around supervising the apartments, and looking at them, I do not know exactly what he did.

Q-- Do you know anything about the conversion of the  
40 Robertson property? A-- That was done while I was overseas, but I am sure he had something to do with that.

HIS LORDSHIP: That was the bigger of the two, was it?

MR. SMITH: The Robertson property is a different property entirely, and then over on another street there was another apartment house which consisted of a stone house and coach house, and the coach house was the one they spoke about being converted into a house.

A. Glover, dir-ex, Plaintiff

Q-- That was done sometime between 1942 and 1945?

A-- Yes, it was all completed when I came back.

HIS LORDSHIP: That property was disposed of. It is not involved in this action?

MR. RIGNEY: He never owned it at all.

HIS LORDSHIP: I thought Mr. Smith might know something about it, or this witness might know something about it. You say that he never owned it.

10 MR. SMITH: Mr. Rigney has said that he never owned it. I cannot say, my Lord.

BY HIS LORDSHIP: Q-- Approximately when was it that your father disposed of his grocery business, do you remember? You do not have to be accurate - just an estimate? A-- Oh, roughly, 1938 or 1939, I should think.

Q-- A short time before the war, you think? A-- Yes, but I am not sure.

Q-- You are not quite sure? A-- Yes.

20 Q-- But you do not modify the answer to my previous question, that it was shortly before the war sometime? The war broke out in September, 1939? A-- Yes. Well, I was away then.

BY MR. SMITH: Q-- It might have been any time in the thirties? A-- Yes, because I was away interning.

Q-- All right, that is all.

#### CROSS-EXAMINATION

BY MR. RIGNEY: Q-- When did you tell us you graduated? A-- In 1934.

30 Q-- How long did you remain in Kingston following your graduation? A-- Well, I went away immediately to Toronto for a year, and Montreal for two years.

Q-- Well, that is three years. That would bring it from 1934 to 1937, wouldn't it? A-- Yes, sir.

Q-- And after being in Toronto one year and Montreal two years, where then? A-- New York City.

Q-- After Montreal? A-- Yes, sir.

Q-- And how long there? A-- One year.

Q-- That would bring it to 1938, wouldn't it? A-- Well, it was longer than that. I was two years in Montreal, actually.

40 Q-- Well, I do not know - A-- I came back here first to join the army in 1940.

Q-- I am trying to find out where you spent your time between the date you graduated from Queen's and the time you came back to join the army, and I will let you tell it yourself. A-- Toronto, Montreal, and New York City.

Q-- And that would consume that period of time following 1934 - from 1934 to 1939? A-- Yes, I came back in 1939, actually.

Q-- After 1939 - and in 1939 you joined the army? A-- In 1940, in July of 1940.

A. Glover, cross-ex, Plaintiff

Q-- And between 1940 and 1942, where were you stationed?

A-- I was a year and a half in Kingston, and six months in Brockville and Pettawawa.

Q-- Then you went overseas, I think you told us, in 1942?

A-- Yes, sir.

Q-- And were there until 1945? A-- Yes, sir.

Q-- So that covers up ten or eleven years, doesn't it?

A-- Yes.

10 Q-- Well now, if my memory serves me, you lived for a year and a half in Kingston following your joining up in the army? A-- Yes, sir, roughly.

Q-- Where did you live at that time? A-- 172 Earl.

Q-- You lived at your father's house? A-- Yes. I was living right with him for six months, and then we moved next door.

Q-- Well now, then, during that period that you lived with your father - that would be in 1939, would it? A-- Part of 1939 and part of 1940.

20 Q-- So, speaking generally and roughly, following your graduation, from 1934 to 1939, you lived elsewhere than in Kingston, didn't you? A-- Yes.

Q-- And during the time that you did live - I will go back a little earlier - did you ever have any knowledge of your father's financial condition? A-- No, sir.

Q-- Did he ever discuss with you his financial affairs? A-- No, sir, not particularly.

Q-- So when you say you thought that he owned these properties, you thought that simply because he lived in them?

30 A-- Well, I used to see tax bills, and so forth, around the house, and they were in his name.

Q-- You know the tax bills are served on tenants as well as owners, do you not? A-- Yes, sir.

Q-- So that is not a satisfactory answer for the reasons you concluded that it was owned by your father? A-- Well, he used to collect the tax bills and pay them. They would be paid by the owner.

Q-- Did you ever go down with him? A-- No.

40 Q-- Why do you say that he paid them? A-- Well, at least, they came to him.

Q-- The trouble is that you say things that you do not know to be true. If you were to content yourself with saying that he got the tax bills, I would not quarrel with you, but when you say he paid them when you do not know whether he paid them or not, then I do quarrel with you. Do you see the difference between talking loosely, putting a charitable view on a man who gives evidence of things that he did not know anything about? I want you to be accurate, and I want you to tell us things you know, and not things that you imagine. Do you see

A. Glover, cross-ex, Plaintiff

the difference? Now then, with that understanding, I will go a little further - didn't you know that your father was foreclosed and gave up the grocery business because he was put out of it in 1936? A-- I did not know that, at that time.

Q-- Therefore, you are not in a position to contradict it? A-- No.

Q-- Did you ever see a Writ of Summons like that, either from your father or your mother, in 1936 or at any time after that? A-- Did I ever see it?

Q-- Yes. A-- No.

Q-- Did your father ever tell you about it? A-- No.

Q-- Did your mother ever tell you about it? A-- No.

Q-- It is what is called a writ of foreclosure in a mortgage action, and there is an affidavit here, in which the Brockville Loan and Savings Company are plaintiff, and Albert Glover and Evelyn Glover are defendants, and the property which is covered, I am told, was the grocery business he carried on. You never knew that was foreclosed? A-- No, sir.

Q-- Neither your father or mother told you that? A-- No.

Q-- Do you see that affidavit on there, that on the 25th of January, 1936, I did personally serve Albert Glover and Evelyn Glover, the above-named defendants each with a true copy of the writ of summons herein - meaning the writ of summons of foreclosure. A-- I see that.

Q-- This writ was issued by my friend, Mr. C. M. Smith, of the City of Kingston, in the County of Frontenac. I am drawing it to your attention. I thought you might have done so yourself.

MR. SMITH: Which, of course, has nothing to do with this action at all.

MR. RIGNEY: I am trying to find out for the benefit of this court just how intimate and close were the relations between father and son.

MR. SMITH: I do not deny that I am solicitor for the Brockville Loan and Savings Company.

HIS LORDSHIP: Are you putting it in?

MR. RIGNEY: Yes, my Lord, I am.

---Exhibit Number (13):- Writ of Summons re foreclosure action on mortgage, between The Brockville Loan and Savings Company and Albert Glover and Evelyn Glover.

BY MR. RIGNEY: Q-- When you told my friend that your father gave up the business, you were not altogether correct, and you are telling us now that you did not know that? A-- That is quite true.

Q-- That is quite true. Well now, then, at that time were your father and your brother, the defendant in this action, likewise in close intimacy? A-- As far as I know, they always have been.



A. Glover, cross ex, Plaintiff

Q-- Then that would cover this period, too. Doctor Glover was then living in Kingston? A-- Yes, Doctor W.R.

Q-- Yes, he was then living in Kingston? A-- Yes.

Q-- And would that be about the time that this incident that you have related about your father and your mother and yourself going out somewhere driving was interrupted by a call from the Doctor? Could you tell us the year in which that happened? A-- Well, it has happened on several occasions.

10 Q-- It ought to be easy to give us one year - any one year in which you say it happened? A-- Well, it was before I enlisted, so it was some time when I was home on leave from either one of the cities where I was living.

Q-- That would be sometime before 1939? A-- I would say so.

Q-- Well, this writ was issued in 1936. Do you think that would be the year in which it happened? A-- I could not say.

20 Q-- Well now, then, did you ever examine your father as a medical doctor? A-- I have - not professionally - I had someone else go to see him.

Q-- Well, that is all right - A-- I examined him with the other doctor.

Q-- And when do you say that took place? A-- Well, I have on several occasions, because he had a hernia which used to cause him trouble at times.

Q-- A hernia? A-- Yes, a rupture.

Q-- Was it with respect to that that you had the assistance of other doctors? A-- Well, sometime ago, yes.

30 Q-- I will develop that. You are telling us you have examined him yourself, and that you had other doctors assisting you in examining him. Is that your evidence? A-- Yes, sir.

Q-- Well now, would that be following your graduation as a doctor that you examined him? A-- Oh, yes - the most recent time was.

Q-- What do you mean by that? A-- Well, I was a medical student in fourth year, and his rupture - what they call strangulated one night - and Doctor Mylks was called in.

40 Q-- You were living under the same roof that night? A-- Yes.

Q-- And you came to his assistance before you could get somebody else? A-- Yes.

Q-- And it was limited to that hernia? A-- Yes, at that time. That is a good many years ago.

Q-- You say that is a good many years ago. It would be prior to 1936 - was it 1934 you graduated? A-- Yes.

Q-- It would be prior to that, and that is quite awhile ago. Now, at that time he was in the grocery business? A-- Yes.

A. Glover, cross-ex, Plaintiff

Q-- And after the grocery business ended, what did he then do to make a living? A-- Well, he had these apartment houses, to my knowledge.

Q-- Did he have them converted into apartment houses at the time the grocery business was foreclosed in 1936? A-- Oh, yes, they were converted before 1936.

BY HIS LORDSHIP: Q-- They were converted before 1936, were they? A-- Yes.

10 BY MR. RIGNEY: Q-- Then he had the care of the apartment houses to look after, didn't he? A-- Yes, sir.

Q-- And what other work did he engage in after 1936 - I am using 1936 as the period when he went out of the grocery business? A-- That is all that I know of.

Q-- He had nothing else? A-- No.

Q-- Well now, you were not in Kingston when the Robertson property that we have heard so much about was bought, were you? A-- No, sir.

20 Q-- Can you tell the Court anything about any work that he did other than work in connection with the apartment houses, number 170, 172 and 174 - any work outside of that, following 1936; that, is, of your own knowledge? A-- No, not of my own knowledge.

Q-- Not of your own knowledge, and if you cannot tell us of your own knowledge, I suppose you could not tell us of your own knowledge with whom he dealt for supplies - he was buying material to do carpentry and other work of that nature - You cannot tell us that? A-- No.

30 Q-- After this incident about the hernia you have told us about, what other medical attention did you give to your father? That was in 1934, I take it? A-- None at all until this last bout that he had.

Q-- This last what? A-- Well, this last illness, the last serious illness.

Q-- And when would that be that you are talking about? A-- Well, that was in December, 1945.

Q-- In December, 1945. Was that the month that he died in? A-- Yes.

40 Q-- Were you here at the time of his death? A-- No.

Q-- I thought you told the Court you were? A-- No.

Q-- And what other doctor besides Doctor Robinson was called in to attend your father? A-- I believe Doctor Mylks saw him once.

Q-- You do not know that?

HIS LORDSHIP: What is the doctor's name?

A. Glover, cross-ex, Plaintiff

MR. RIGNEY: Doctor Mylks. The evidence of the witness is that Doctor Mylks saw him once. Is that what you say?

A-- Yes, I was not there when Doctor Mylk came, but I was there when Doctor Robinson came.

Q--How many days prior to his death was the first of these men called in? A-- I believe it was two or three weeks before that Doctor Mylks saw him.

Q-- Are you saying you believe that Doctor Mylks saw 10 him two or three weeks before his death? A-- Yes.

Q-- Is that what you wish to say? A-- Yes, that is, to the best of my knowledge.

Q-- Were you here at the time? A-- Yes, I was here.

Q-- It is to the best of your recollection, too, isn't it? A-- Yes.

Q-- And Doctor Mylk was the first man called in? A-- Yes.

Q-- And following him, Doctor Robinson? A-- Yes.

Q-- And when was Doctor Robinson called him? A-- In 20 December - approximately the 20th - he took him to the hospital.

Q-- And that would be within a week of his death wouldn't it? He died within a week or so after that - did you say the 23rd or the 27th? A-- The 23rd he died.

Q-- So Doctor Robinson was called in three days before? A-- Longer than that.

Q-- Were you at that time living under the same roof with your father? A-- No, I was living next door.

Q-- In an adjoining building? A-- Yes.

30 HIS LORDSHIP: In one of his buildings?

MR. RIGNEY: In one of these buildings, my Lord, and you were the occupant of an apartment? A-- Yes.

Q-- And you occupied that apartment with your wife? A-- Yes, sir.

Q-- And who did you pay the rent to? A-- Well, it has always been paid to my father.

Q-- I am not talking about - I am not asking you about always being paid to your father - I am asking you a question - who did you pay the rent to? A-- A. Glover.

40 Q-- A. Glover?

HIS LORDSHIP: He said it was always paid to his father -

BY MR. RIGNEY: Q-- You paid rent to some person, didn't you? A-- Surely.

Q-- And when I asked you who you paid it to, you say A. Glover? A-- Yes.

Q-- That is your father? A-- Yes.

A. Glover, cross-ex, Plaintiff

Q-- And not Doctor Glover? A-- No, they were always made out to A. Glover.

Q-- That is all right. I have been informed to the contrary, and that is the reason I am asking you, and it was paid by cheque? A-- Yes.

Q-- With your cheque or your wife's? A-- Well, I went to Halifax, and she may have paid it after that - I don't know -

10 Q-- You do not know, but when you were here, it was paid by your cheque to your father, was it? A-- Yes, that is right.

Q-- And did you pay any rent to Doctor Glover? A-- I never did.

Q-- You never did. All right; that is all right. Well now then, this senility that you speak of as being present in your father, when did you first detect that? A-- The first signs, four or five years ago, and before going overseas.

Q-- And did you discuss it with your mother? A-- No.

Q-- Did you discuss it with anybody? A-- No, - with my wife probably.

20 Q-- You say you would discuss it with your wife, but you did not discuss it with your father or your mother?

A-- Well, naturally not.

BY HIS LORDSHIP: Q-- How was your mother at that time, before you went overseas? A-- How was she?

Q-- Yes, at the time you went overseas. A-- Feeble, but getting around all right.

Q-- I am not concerned so much about her physical characteristics as her mental. She was in the witness box here yesterday, and were you here? A-- Yes, sir.

30 Q-- How was she in 1940 compared to what she was yesterday? A-- Just about the same.

BY MR. RIGNEY: Q-- The same as when? A-- Yesterday.

Q-- Are you telling this Court that in your opinion your mother yesterday was in the condition that she was previous to your father's death? A-- Mentally?

Q-- I am not distinguishing between mental or physical.

HIS LORDSHIP: Well, that is what I am interested in at the moment.

MR. RIGNEY: His Lordship asked you that, but -

40 HIS LORDSHIP: Unless you are taking him off that point, but I am interested in her mental capacity.

MR. RIGNEY: Well, I was dealing with her physical capacity, my Lord. I am trying to find out what this witness' views are with regard to his mother's condition yesterday from the physical point of view and her condition, say, four or five years ago. A-- Well, she was not the same yesterday. She was was having a bout of asthma.

A. Glover, cross ex, Plaintiff

Q-- How much weight do you think she has lost in the last four or five years? A-- Quite a bit - I cannot say how much.

Q-- Does that mean twenty pounds, or five, or thirty or forty? A-- I have never seen her weighed.

Q-- You are here giving medical evidence as well as the evidence of a son, and do you wish this court to accept that as the best answer you can make under oath to a simple question?

A-- Well, ten pounds.

10 Q-- That is a compromise, perhaps, between the twenty that I suggest - you do not know -

MR. SMITH: You had not suggested to him -

THE WITNESS: Well, I do not think you can guess a person's weight.

BY MR. RIGNEY: Q-- Well now, dwelling on the phase you have spoken of - I hope you will acquit me of any intention to speak disrespectfully of your father, but he was not a man given very much to conversation, was he? A-- He was not?

Q-- Wasn't he rather a quiet man? A-- Not latterly.

20 Q-- Well, we will deal with it in two phases then - was he formerly, then, a quiet man? A-- Relatively quiet, yes.

BY HIS LORSHIP: Q-- When? A-- A number of years ago.

Q-- Before you went overseas? A-- Oh, some time before that.

BY MR. RIGNEY: Q-- Yes, all right. Then your next answer was that latterly he was a talkative man, or at least I understood your answer to mean that. Is that what you wish to say? A-- Yes, sir.

Q-- And was he talkative to you or to everybody?

30 A-- To everyone.

Q-- And you have told the Court that in talking to you, he was prone to discuss his duck-shooting days, and horseback riding days, and so forth - he did both of those things, didn't he, and was very fond of them? A-- Yes, he did, years ago.

Q-- He used to go hunting every time he could find anybody to go with him, didn't he? A-- Yes.

Q-- And he used to go horseback riding any time he could get hold of a horse to ride, didn't he? A-- Yes.

40 Q-- Other than those two pastimes or outlets, can you tell us of any others that he indulged in in his life time?

A-- Work.

Q-- That was his chief pastime, wasn't it? A-- Yes.

Q-- A very industrious man, wasn't he? A-- Yes.

Q-- You spoke about his having developed in recent times a tendency to discuss the Russians, if I understood your evidence? A-- Yes.

A. Glover, cross-ex, Plaintiff

Q-- And that was a recent development, was it, as far as your knowledge goes? A-- Yes.

Q-- And the discussions that you heard him indulge in - were they with you or were they with others? A-- Both, but I would not listen to them.

Q-- And that was during the war days? A-- Yes, partly during the war.

10 Q-- And I suppose he was not the only person whom you heard discussing the progress of the war and the part that Russia was taking in it? Wasn't that a general topic of conversation? A-- Well, I mean, he did not know anything about what he was talking about; he was not a Communist.

Q-- Do you think a lot of people knew very much about what they were talking about when they were talking about the same thing? A-- Well, they could still talk about it.

20 Q-- Yes, they could still talk about it. That is a good answer. So when he was talking about Russia, he was not speaking about a subject that was not in the mouth of a good many other people at the same time, was he? A-- Well, I suppose not, but I did not hear very many people talking about it.

Q-- But you were in the Army and away from Kingston at that time, weren't you? A-- Well, I was here for a year and a half.

Q-- But you noticed that was a development in your father that was unusual, didn't you? A-- Yes.

Q-- Now then, did you ever take his blood pressure? A-- I never did, sir.

30 Q-- That is one of the things you spoke about him suffering from, didn't you? A-- Yes.

Q-- Did he ever complain of headaches? A-- Occasionally.

Q-- To you? A-- Yes.

Q-- And what would you prescribe, or what would you suggest that he should do? A-- I never prescribed anything for him, sir.

Q-- Did you tell him that was not at all surprising in a man of seventy-seven - 77, or 78 or 79? A-- No, I let the doctors called -

Q-- But you knew yourself, as a doctor, that there was nothing remarkable in a man of that age to have both high blood pressure, and at the same time, accompanying headaches; there was nothing surprising like there would be with a man of thirty? A-- Well, you can have it in a man of thirty.

Q-- But I suggest to you this might be expected and quite frequently does a man of from seventy-five to eighty? A-- As a general rule, yes.

Q-- So there was nothing remarkable about that, was there?

A. Glover, cross ex, Plaintiff

A-- There was nothing remarkable as far as medicine goes, but it can be a serious thing.

Q-- Yes, no person is minimizing it, but I am discussing the presence of it in your father - a man who died at seventy-nine years of age, and whom you say was troubled with high blood pressure and headaches, and I am asking you, as a medical man, if that is an unusual thing to find in a person of that age, living a strenuous life, hard-working all his life - extremely  
10 hard-working and extremely industrious - would that be a surprising symptom to encounter in any person else who had had that experience? A-- No.

Q-- I would not think so. All right, thank you, Doctor.  
--- The witness retires.

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DOCTOR SAMUEL ROBINSON, a witness being called and duly sworn, testifies as follows:

EXAMINED BY MR. SMITH: Q-- Doctor, I believe you attended the late Albert Glover in his last illness? A-- I was called to see him.

20 Q-- And what did you find?

BY HIS LORDSHIP: Q-- When was it? A-- December 20th.

BY MR. SMITH: Q-- December 20th? A-- Yes.

Q-- What year? A-- 1945.

Q-- Yes? A-- When I saw him - I had never seen him before - and when I saw him, he was obviously quite ill, breathing rapidly, pulse rate very rapid, and irregular, and in trying to get some history - he would not talk very much. He could not answer questions very rationally, and I got some information from the family. I found that the condition was gradually coming on during the past few days, becoming worse, and in view of  
30 the serious illness, I suggested that he be hospitalized immediately, and in the hospital we found that he had a generalized hardening of the arteries, with elevated blood pressure, and from the examination, the diagnosis that suggested itself to me was that he had some cerebral accident involving the part of the brain that has to do with breathing and heart-rate. In other words, we think it may have been localized to the floor of the fourth ventricle of the brain. Well, he seemed to recover with rest in bed and digitalis. That is, he seemed to improve somewhat, although, of course, his condition was very  
40 serious, likely being caused by a haemorrhage of the vessel which had destroyed or damaged the brain in that area, and on December 22nd, that is two days after being taken to the hospital, at the instance - at the insistence of the patient's wife and himself, he left the hospital against advice, and apparently died that night.

Q-- At home? A-- At home.

S. Robinson, dir-ex, Plaintiff

BY HIS LORDSHIP: Q-- You have heard since that he died, I suppose? A-- Yes, the son called me and told me that his father had died that night.

BY MR. SMITH: Q-- You did not see him again, Doctor?  
A-- No.

Q-- All right, thank you.

MR. RIGNEY: No questions, Doctor, thank you.  
--- The witness retires.

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10 DOCTOR PHILIPS MILNES MACDONNELL, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q-- Doctor Macdonnell, you are a practising doctor in Kingston? A-- Yes.

Q-- And you have been practising for how many years?  
A-- Twenty-two.

Q-- Twenty-two years. Now, you have heard Doctor Robinson's evidence, and you have heard the evidence of Doctor  
20 Albert Glover, or part of it? A-- Yes.

Q-- What physical effect has hardening of the arteries on a man of seventy-five, seventy-seven or seventy-nine?

A-- Well, do you mean in one part of his body or on all his body?

Q-- On his general physical health? A-- Well, it means that the blood is not getting to the tissues in a normal way.

Q-- How is that brought about, Doctor? A-- Because the arteries become narrower, and the blood supply to the tissues is not as good as it is normally.

30 Q-- How would that affect the supply of blood to the brain? A-- Well, it could have a very definite effect there, but when you begin to talk about the effect of arteriosclerosis on the brain, you are coming into a wide field.

Q-- Well, what would you say as to the effect on the brain in a man of that age, which you have heard - whose illness you have heard terminated in the way described by Doctor Robinson? A-- Well, you would have to be pretty careful in any statement you made.

40 Q-- Yes, and I want you to be very careful. A-- I mean, you could not say that it would produce one group of symptoms or another. It could produce dozens of clinical pictures.

Q-- Now, Doctor, did you know Albert Glover?  
A-- Slightly.

Q-- Had you known him for years? A-- Yes, I have known him ever since I was a youngster.

Q-- Ever since you were a small boy? A-- Yes.

Q-- Did you talk to him? A-- No, I do not think I ever spoke to him.



P. Macdonnell, dir-ex, Plaintiff

Q-- Did you speak to him? A-- I think I have exchanged greetings on the street. I do not think I had any other connection with him.

Q-- Did you see the man in the last couple of years before his death, the last three years, say? A-- Yes, I used to see him when he was interested in changing over the Robertson house, but, as I say, just a greeting, and no more.

10 Q-- Well, did you continue to exchange greetings with him until his death? A-- Well, I would say that the last two or three times I saw him, he did not say, "How do you do" when I did. I have noticed that he seemed more withdrawn, or whatever you like to say. If you would say, "How do you do," or "Good day," you would not get any response, but that is all I could say about him.

Q-- Coming back now to the effect of arteriosclerosis, what effect would that have on a man's mental condition and attitude; might there be a complete change of personality?

20 A-- Well, you said, "would it have" - I would say, rather, "could it have."

Q-- Yes, all right. A-- It could produce mental deterioration. It could produce changes of personality. It could produce a great number of pretty serious changes in the behaviour, but there is no way of saying that it always would.

Q-- Could it affect a man's will or his readiness to accept a suggestion? A-- Well, if he has mental deterioration, the answer would be Yes.

30 Q-- That is, he would have less resistance to persuasion or suggestion? A-- That is quite true. It is a very common condition, and any medical man knows you can get almost any picture from cerebral arteriosclerosis.

Q-- You can get almost any picture. Would it be possible that a man suffering from that type of sclerosis might at certain times be incapable of judgment? A-- As I have said before, if he has intellectual and mental deterioration, that would be true.

BY HIS LORDSHIP: Q-- It all depends on the particular case, I suppose? A-- Yes, exactly.

40 Q-- You have to examine him to know, and to take a history, I suppose - A-- Well, there is no examination that would give you any idea of it.

Q-- Are there not other means of determining whether a man has been affected by arteriosclerosis or that his brain has been affected? If you find the presence of arteriosclerosis, and you find a man's memory to be bad, and inability to concentrate- with those symptoms, you would feel, would you not, that his brain had been affected by the arteriosclerosis?

P. Macdonnell, dir-ex, Plaintiff

A-- Well, you would say that cerebral arteriosclerosis could explain such a state of mind, but you could not say that if he has arteriosclerosis, that such and such might happen.

Q-- You would have to have the patient under observation before you could come to any opinion? A-- I think with some of the medical tests, they could get some more information, but that requires very very expert -

10 BY MR. SMITH: Q-- As to symptoms - suppose a man of seventy-seven or seventy eight, suffering from arteriosclerosis, were noticed to be wandering around in a morose manner, looking at the ground, and so forth, would that indicate anything? A-- I think if the doctor were told that, he would expect that almost anything might happen in the way of abnormal conduct, you might say.

BY HIS LORDSHIP: Q-- It is a progressive disorder, isn't it? A-- Very slowly progressive.

20 Q-- Assuming that a man has arteriosclerosis, and it so diagnosed on the 23rd of December, 1945, is there any period of time, any definite period of time which you can point to as the probable date of the onset of that disease? A-- Well, I think this is what one might say - that the changes would be so slow that they would be almost unnoticed by the people around him.

Q-- At the onset - A-- Well, the onset would be over several years.

BY MR. SMITH: Q-- How many years, Doctor? A-- Ten years.

30 Q-- Over ten years, say, and it would be progressively a little worse all the time until his death? A-- Almost imperceptible, I would think.

Q-- It would be very very slowly? A-- I would think so.

Q-- But, nevertheless, there would be that progressive change? A-- There could be.

Q-- There could be that progressive change? A-- Yes.

Q-- And in this particular case of Albert Glover, the only personal examination or the only personal attention that you can refer to would be what you have already told us. You cannot give us anything further? A-- No, I have nothing more to add to that.

40 Q-- All right, thank you, Doctor.

CROSS-EXAMINATION BY MR. RIGNEY:

Q-- Just one question, Doctor. I gather from your general evidence that the closest you came to this man is about as far as I am from you - about ten or twelve feet altogether?

A-- Yes, that is exactly what I said.

Q-- You bowed to him and bid him the time of day?

A-- That is right.

Q-- All right.

----The witness retires. -----

J. Davy, dir-ex, Plaintiff

JOHN ERNEST DAVY, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,  
OF COUNSEL FOR THE PLAINTIFF:

Q-- Mr. Davy, what is your occupation? A-- Wholesale merchant.

10 Q-- How many years have you known the late Albert Glover; how many year did you know him? A-- Oh, I would say thirty or forty.

Q-- Thirty or forty years? A-- Yes.

Q-- Did you do business with him? A-- Yes.

Q-- What sort of business did you do with him? A-- Well, the first time, it was the wholesale grocery business.

Q-- That is, you sold him groceries, as a wholesaler to a retailer? A-- Yes.

Q-- And then more latterly - A-- Well, we sold him until he quit business - about ten years ago.

20 Q-- And you were associated with him in business over the years you have mentioned? A-- Yes.

HIS LORDSHIP: Not associated -

BY MR. SMITH: Q-- No, but selling him goods? A-- Yes, but I knew him very well, in a business sense.

Q-- You were very well acquainted with him? A-- Yes.

Q-- Now, Mr. Davy, you would see Mr. Glover, I suppose, quite frequently, would you? A-- Quite frequently - maybe once in a week, or once in two weeks, and sometimes nearly every day.

Q-- Sometimes every day? A-- Yes.

30 Q-- You would often see him around and talk and discuss things? A-- Yes, he sometimes wanted to talk more than you wanted to listen to him - on certain things.

Q-- On certain things. Do you remember about when he gave up the grocery business? A-- I would think it would be about 1935 or 1936 - around that. That is quite awhile ago, I know.

Q-- About 1935 or 1936? A-- Yes. I know we closed ours in 1938, and it was a few years before that that he closed. That is all I have got to remember it by.

40 Q-- And what did he do after that? A-- Well, he was working in that apartments.

Q-- Were you ever up to the apartments? A-- Yes, he used - if I would meet him sometimes - he was very much interested in them, and he said that he was going to take it easy - that was before he quit the grocery business - he said that he was going to take it easy and live on the revenue.

Q-- On the revenue from the apartments? A-- On the revenue from the apartments.

J. Davy, dir-ex, Plaintiff

Q-- And he had these twelve or fourteen apartments that are in the two buildings at Earl and West Street, and then he had some apartments over the store; is that right? A-- Yes.

Q-- Do you know of any other apartments that he was interested in? A-- Well, I just know the McRae house - that is the big apartment - and then he had his own private house, and he made that into apartments, and I think he lost the apartment over the store with the store.

10 Q-- Do you know anything about the Robertson property? A-- Well, I thought Doctor Glover bought that property himself, but Albert did an awful lot of work preparing it and changing it. I do not know if he got paid for it, but he did a lot of work.

Q-- How long was he working around over there? A-- Well, it was really finished - it might take a year or so.

20 Q-- Over a year? A-- I would think so. For some reason, I kept away from the Robertson house. It was my partner's house, and I did not want to see it cut up the way it was, and I did not go near it, but I know that he did a lot of work on it. There was a stable that he made into a house, and I did go into that a couple of times, but I did not go into the Robertson house.

Q-- Had you any personal dealing in connection with the Robertson house as far as your own business with Mr. Glover was concerned? A-- No, I had nothing to do with that at all. That is my partner's estate, and I had nothing to do with it.

30 Q-- Can you tell me what his relations were with his brother, W.R., the dentist? A-- Well, really, Mr. Smith, I don't know. They seemed to be working together - in harmony - only I got the impression that Albert Glover found it very hard to get the amount of money that he wanted from his brother. I do not know just what he wanted the money for. Sometimes when you start an apartment, it takes a lot more than you think it is going to, and he would have to get some assistance from his brother, the doctor, to go ahead with it, and I think they were both interested in the building.

40 BY HIS LORDSHIP: Q-- How do you know that? Did somebody tell you that? A-- No, I know that Doctor Glover used to advance the money to Albert when he needed it.

Q-- How do you know that? A-- Well, Albert told me. He would discuss it with me. I might say, when Albert quit the business, he owed quite a lot of money himself - I thought that he was probably taking the money that was due to some of the people that he bought goods from to put into the apartment houses. I don't say that he did, but I know before he started to go into the apartments, he seemed to be quite flush and lots of money, but after he started to build the apartments, he

J. Davy, dir-ex, Plaintiff

started to get "slow". I never knew him to spend anything except to go into the apartments.

BY MR. SMITH: Q-- He got sort of "hepped" on the apartments? A-- Well, it seemed to cost more than he thought it would have. He was all enthused about the apartments. He said that he was going to take things easy, and live on the revenue of the apartments.

10 Q-- And he gave up the business? A-- Yes, and he left the business in charge of a girl while he was working on the apartments, and the upshot was that he lost the business. He was not attending to it.

Q-- He neglected the business? A-- I think he neglected the business when he was working at the apartments.

Q-- Well, the apartments were his pride and joy, weren't they? A-- He seemed to think they were a wonderful thing. He was a stone mason by trade, and I think he did a lot of work. He did a lot of work. In fact, he worked very hard, I thought.

20 Q-- Was there any change in his character in the last two or three years, or in his appearance? A-- After he left the grocery business, I did not have occasion to see him as often as I had before, but he was always very friendly to me, and if I was across the road, he would holler, "Hello, John," and come over to see me, or I would go over to him. Then, towards the last, he seemed to, I would say, withdrawn within himself, as it were, that is, he did not want to meet people. I have not any real reason for that mental attitude, and I lived almost opposite the court house here, and sometimes on a Sunday I would be by the front window, and I could see over the  
30 court house grounds and the cricket field, and the park, and I used to see Albert Glover kind of walking along through the cricket field, and up through the court house grounds and go on home around this corner, as if he did not want to meet people. I do not know any reason for it, but instead of being like he was years ago - hollering at you and getting acquainted - he seemed to withdraw himself. Maybe he felt - sometimes a man is fairly well off and loses money, and he kind of thinks that people do not care as much about him as they did before.

40 Q-- Whatever the cause of it, you did notice that change? A-- Yes, he used to walk by himself.

Q-- How did he walk? A-- Well, I remember that he used to often go around swinging a stick or a cane, and have his head down like, as if thinking about something.

Q-- That is, with his head down? A-- Yes, and looking at the grass in front of his toes. That is the way I would look at it. That is the only change I saw in the man - as I say, I had not been speaking to him for about a year before he died,

J. Davy, dir-ex, Plaintiff

except one night, I was going along Clergy Street, and I said, "Hello, Albert," and that kind of woke him out of a dream. He did not see me coming, and he said, "Hello, going down town? It is cold," and I said, "Not for me."

BY HIS LORDSHIP: Q-- When was this? A-- This was in the fall of 1945. I know that I did not feel the cold, but I like walking -

10 BY MR. SMITH: Q-- It was not really cold? A-- No, it was not really cold. It was dark, and he apparently did not know me, and we were always good friends.

Q-- Ordinarily, he stopped and talked? A-- Yes, if he had time, and he was always proud of the work that he was doing at the apartments.

Q-- He took a great pride in the work that he was doing there? A-- Yes, and lots of times he would take up your time when you really could not afford to.

Q-- All right, thank you.

20 MR. RIGNEY: No questions.  
--- The witness retires.

(Whereupon a short recess was had)

HIS LORDSHIP: Very well, Mr. Smith.

MR. SMITH: I will call Cecil Pollitt.

-----

CECIL POLLITT, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR SMITH,

OF COUNSEL FOR THE PLAINTIFF:

30 Q-- Mr. Pollitt, you are an electrical contractor in the City of Kingston? A-- Yes, sir.

Q-- Were you acquainted with the late Albert Glover? A-- Yes, sir.

Q-- How long had you known him? A-- Four years.

Q-- Four years? A-- Yes, sir.

Q-- How did you become acquainted with him? A-- Well, I was called in to do the wiring on the apartments after the first fire.

Q-- What apartments? A-- On Earl Street.

Q-- At the corner of West and Earl and Clergy; is that right? A-- Yes, that is right.

40 BY HIS LORDSHIP: Q-- You were called in when to do the work? A-- Well, that would be just after the fire.

Q-- I do not know when the fire was. A-- Well, that would be approximately 1942, I believe.

C. Pollitt, dir-ex, Plaintiff

BY MR. SMITH: Q-- About 1942? A-- Yes, I think it was.

Q-- What was the extent of the damage done by the fire?

A-- Well, the roof was pretty well taken off.

Q-- That is off what building? A-- Off 174, I believe the number is.

Q-- Is that the main building? A-- Yes.

Q-- The large building? A-- Yes, and we practically re-wired the building.

10 Q-- You rewired the building? A-- Yes.

Q-- Who gave you your instructions? A-- Well, mostly Albert Glover.

BY MR. RIGNEY: What do you mean, mostly? A-- Well, the Doctor was there at times.

Q-- That is the defendant? A-- Yes, sir.

Q-- That is Doctor W.R.? A-- Yes.

BY MR. SMITH: Q-- What were you going to say? A-- I beg your pardon?

Q-- Had you finished? A-- Yes.

20 Q-- Who employed you, did you say? A-- Well now, I was called in, I believe, by the general contractor, and it seems to me that I took practically all my orders from Albert Glover, at that particular building.

Q-- Now, had you any chance to form an opinion of the character and nature of Albert Glover? A-- Yes, I would say so.

Q-- Well, tell me what you know about him. A-- Well, he struck me as being a very moody man.

30 Q-- Well, in what way? A-- Well, there were days when you got in very lengthy conversations, some days when you could ill afford to waste the time on it, and other days he would ask about the work, and he would more or less turn his back on you, as if he did not want to be bothered.

Q-- Indifferent? A-- Yes.

BY HIS LORDSHIP: Q-- What do you mean by that? A-- Well, sometimes our work is very technical -

Q-- Do you mean, that he was paying no attention to what you were doing? A-- Well, certainly, we were given a great deal of freedom on the job.

BY MR. SMITH: Q-- Did he talk to you much? A-- Yes.

40 Q-- What would he talk about - the job? A-- No, not to any extent - he used to talk of things that happened years ago, and he had some very strange ideas on religion, and also on Communism.

Q-- Did you talk about religion with him much? How did that come up? A-- Oh, these conversations just have a way of coming up - being religious, I would imagine that he started it.

Q-- You believe he started it? A-- Yes.

C. Pollitt, dir-ex, Plaintiff

Q-- Was it an argument or a discussion? A-- Well, just a discussion. He was pretty much an atheist.

Q-- He was an atheist? A-- I would say so, yes.

Q-- As you knew him? A-- As I knew him, which was the last few years of his life.

Q-- He had no belief in God? A-- Nonewhatever.

Q-- Had he any other curious quirks that you noticed?

A-- Well, no, not outside of the Communist idea - of course, 10 he was very definitely against the government in some of its undertakings, but weren't we all -

Q-- I suppose we are, depending on our political affiliations. Did this attitude to the work vary from day to day? A-- Well, he was always very interested in the jobs; I would say very much interested.

Q-- Did you form any impression as to how he felt about the apartments? A-- Well, I would say his whole heart and soul was tied up in the apartments.

Q-- They meant a lot to him? A-- Yes, I think so, yes.

Q-- Did he show you anything that he had done, or point 20 out any improvements? A-- Oh, yes, he took great pride in laying these jobs out, as a matter of fact.

Q-- And did he discuss the apartments with you? A-- Oh, yes.

Q-- Did you have a chance to notice the relations between Albert Glover and his brother, the Doctor, W.R.? A-- Well, just from them being on the jobs together.

Q-- What would you say their relations were? A-- Well I would say that they were very close - certainly, from my observa- 30 tions, I would say very, very close.

Q-- Do you mean, just like ordinary brothers? A-- Yes, if not closer than ordinary brothers. They discussed matters together, and they seemed to be very close together, in my opinion.

BY HIS LORDSHIP: Q-- You say they seemed to appear closer than the majority of brothers? A-- Yes, I would say that.

MR. SMITH: All right, I think that is all.

CROSS-EXAMINATION BY MR. RIGNEY:

Q-- Just a couple of questions, Mr. Pollitt. These discussions that you speak of as having occurred between the bro- 40 thers Glover, would they be in relation to the work? A-- Yes, in most cases.

Q-- They were conferring together as to the work you were doing? A-- Yes, generally.

Q-- And that would be while you were doing it, on the job? A-- Well, mostly, yes.

Q-- And I take it that Mr. Albert Glover was more regular in his attendance on the job than the Doctor? A-- Oh, yes, definitely.



C. Pollitt, cross-ex, Plaintiff

Q-- And these discussions you have referred to would be discussions that would take place when the Doctor would come around, as to, I would suggest, the progress of the work and the manner in which it was being done? A-- Yes, the lay-out - what was to be put into it, and so on.

Q-- Did you have a contract with Mr. Gibson for the work which you did? A-- No, I never had any contract.

10 Q-- I gather there was other work going on, and yours was limited to the electrical work? A-- Yes, that is all we done - the electrical work.

Q-- And were you paid for your work? A-- Yes, definitely.

Q-- Who by? A-- All our bills went to Doctor Glover.

Q-- Were they paid by him? A-- Definitely.

Q-- Have you any idea about what the total amount of your contract would be? A-- Well, I have worked for them off and on over the period of years on the different buildings -

20 Q-- You started out by discussing some work that was done after a fire, and that is what I am alluding to? A-- Well, we had two fires on Earl Street, and the extent of the first fire, I imagine, the bill was roughly around four hundred dollars, more or less.

Q-- And the second one - A-- The second one - the work was done in different stages. The bills would go in in different stages, totalling, I imagine, seven hundred dollars.

Q-- Four hundred and seven hundred would be the amount of the two jobs? A-- Yes, roughly.

30 Q-- Could you tell us the year in which the work was done? Was there an interval of time between them? A-- Yes.

Q-- When would be the order - A-- Well, I would imagine the second fire was roughly a year or so after the first one.

Q-- And when would the first one be? A-- Approximately four years ago, I believe, to this month.

Q-- Four years ago; that would be in 1943, wouldn't it? A-- Yes, roughly.

Q-- If the first one was 1943, then the second one would be in 1944, according to your recollection; is that right? A-- That is right.

HIS LORDSHIP: What is that?

40 MR. RIGNEY: 1943 and 1944. The four hundred dollar job being 1943, and the seven hundred dollar job being in 1944?

A-- Yes.

Q-- And you just added one other word, that the bills for the work were rendered to Doctor W.R. Glover? A-- That is correct.

Q-- Could you tell us how that happened? A-- Well, no, inasmuch as the other contractors - I believe the general contractor on the job told me to submit my bill to Doctor Glover.

Q-- But when you undertook the job in the first instance, who did you contract with? A-- The first job was with Albert

C. Pollitt, cross-ex, Plaintiff

Glover.

Q-- That would be in 1943? A-- Yes, and from there on, we took orders from both Doctor Glover and Albert Glover.

Q-- I am not dealing with orders. I am dealing with the making of the contract, and you have told us that the first one was made between you and Mr. Albert Glover? A-- Yes.

Q-- And the second one - A-- The second one, I believe they were both present.

10 Q-- You think that both the Doctor and - A-- Yes, we took off estimates for the insurance company, and I believe they were both -

Q-- Was there any formal contract in writing? A-- No.

Q-- It was by word of mouth? A-- Yes, definitely.

Q-- And when you say that, you mean the word of mouth contract was made with Albert Glover for the first job, and for the second job it was made with both of them? A-- Yes. Of course Albert Glover gave us more of our instructions on those jobs.

20 Q-- I am trying to find out who the contracts were made with. You have told me they were both verbal contracts? A-- Yes.

Q-- The first one was made with Albert Glover, and the second one made with whom - A-- Well, I was looking after their electrical work, and it was more or less a conclusion that I would do the job.

30 Q-- Just a minute - when you use the word "they", who do you mean? A-- I mean Doctor Glover and Albert. We had a fire, and they were both there, and naturally in my work we could not stop to have contracts. We were working as soon as the fire had stopped.

Q-- Well, now, previous to working in 1943 with Mr. Albert Glover, had you had any other business dealings with him? A-- No, sir.

Q-- So that was your first? A-- That is right.

Q-- And following the business transactions in 1943 and 1944, did you have any later business transactions with Mr. Albert Glover? A-- Yes.

Q-- You had with him? A-- Yes, I believe so, yes, sir.

40 Q-- Mr. Albert Glover? A-- Yes, sir.

Q-- Would that be with respect to these buildings we are talking about? A-- Yes, sir.

Q-- Did you do any work in the building that is called the Robertson building? A-- Yes, sir.

Q-- And did you have a contract for work there? A-- Yes, sir.

Q-- Who did you make the bargain with for that building? A-- I believe it was Albert.

C. Pollitt, cross-ex, Plaintiff

Q-- You believe it was? A-- Yes.

Q-- And was it likewise a verbal one? A-- Yes.

Q-- And have you any idea of the amount of money that was involved in that contract? A-- Well, it was a smaller amount - I would imagine around \$150 or \$200.

Q-- That was the Robertson house? A-- Yes, sir.

10 Q-- And were there plans prepared by which you worked, or did you go with Albert Glover and inspect the work and then give a price on it? A-- No, I was never asked for any price on it. I was just told what to put in, and we put it in.

Q-- But who told you? A-- Albert Glover.

Q-- And did the Doctor have anything to do with that? A-- Well, he was there, of course, through the jobs.

Q-- I have asked the question in a different form. Was he there when you first looked at the work with Albert Glover?

A-- No, I do not believe he was.

20 Q-- And was the work decided upon between you and Albert Glover before the Doctor had anything to do with it? A-- Yes, I believe it was.

Q-- So it would be after the contract was made that Albert first had anything to do with the Robertson job, and that was inspecting it - I am sorry - that the Doctor had anything to do with it - A-- Well, of course, the Doctor usually came on his inspection afterwards, and there was more or less a general discussion.

BY HIS LORDSHIP: Q-- I understand it was Albert Glover who gave you your original instructions? A-- Yes.

30 Q-- And it was not until after you had received your instructions from Albert Glover that you saw Doctor Glover there?

A-- That is right.

MR. RIGNEY: That is what I wanted to clear up. Thank you.

Q-- By whom were you paid for the last job? A-- All my bills went to Doctor Glover.

Q-- Who paid you; that is all I asked you. A-- Doctor Glover.

Q-- Thank you.

----The witness retires. -----

40 HARRAN KEELLER, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. SMITH,

OF COUNSEL FOR THE PLAINTIFF:

Q-- Mr. Keeller, were you acquainted with the late Albert Glover? A-- Yes, sir.

H. Keeller, dir-ex, Plaintiff

Q-- During his life time. How many years did you know him? A-- Well, if I go away back to the first - it would be about forty odd years.

Q-- Did you often go over to the apartments? A-- No, I never went over to the apartments very often - occasionally - I used to go over, and borrow his roller.

Q-- You are quite handy to the apartments? A-- Yes.

Q-- Did you see him quite often? A-- Yes, quite often.

10 Q-- What was his attitude towards his property over there, as you saw it? A-- I do not know so much about that. He used to call these two apartments over here at West, the corner of West and Earl, his, and the other, he called his brother's, down on Sydenham Street, the Robertson apartments.

Q-- That is the Robertson apartments. He referred to those as his brother's? A-- Yes.

Q-- Was that shortly before his death, or when? A-- Well, that was when he was fixing the Robertson house over.

Q-- That is when he was fixing up the Robertson house?

20 A-- Yes, I was coming along there one day, and he called me in to see the furnace. He knew I was interested in heating systems, and showed me where he had taken the earth out of the front there to get more light into the basement windows, and I went in with him, and he showed me the furnace, and then he took me all through the apartment, and he said it was his designing, and that it belonged to his brother, and that he did not understand it so much, and he took me up, and showed me the little place that Mr. Wilder bought. He was anticipating sending the heat from the main building up there, but he afterwards decided  
30 that he would sell that, and he did not bother with it.

Q-- Did he ever take you over to look at the other apartments? A-- Yes, I was over there. He took me to look at a bathroom one time.

Q-- How did he feel about these apartments on Earl Street? A-- Well, I could not tell you about that.

Q-- Did he ever point things out to you? A-- Oh, yes.

Q-- Did he show any pride in the place? A-- Yes. At one time he came down to see me. He had been out to Battersby, and he wanted to know if I knew who owned that nice hedge on the  
40 south side of Battersby, and I said I did, and he wanted to know who it was, and I told him, and he wanted to know if I knew how he got it, and I said, yes, I did, but I was not there when he put it in.

Q-- Why did he want to know that? A-- Well, he was going to put one in at his apartment up here, along the little walk going in.

H. Keeller, dir-ex, Plaintiff

Q-- What apartment do you mean? A-- Well, I would judge the one on Earl Street.

Q-- When was that? A-- That would be three or four years ago. I did not pay much attention to it at the time.

Q-- Three or four years ago? A-- Three or four years ago - maybe a little more.

10 Q-- Do you know anything about his attitude towards his brother, W.R. Glover? A-- Well, he seemed to talk about his brother as though they were very closely connected. Of course, I do not know anything about his business or anything like that, but he used to mention his brother - about him buying the place down there.

Q-- But you do not remember any more than that about it? A-- No, I do not know any more about it.

Q-- All right, thank you.

MR. RIGNEY: No questions.

---- The witness retires. -----

20 MR. SMITH: Now, my Lord, I wish to read certain questions into the record from the examination for discovery of W.R. Glover.

The first question, question 162, on page 16; "Q--162 Did you ever charge the interest up and give a bill of the interest to Albert? A-- No. When there was a new mortgage made the interest was added to it.

Q--163- When was the last mortgage made? A-- I couldn't tell you.

Mr. Gibson: 1944.

30 Q--164- That was the last mortgage, was it, in 1944? A-- Yes.

Q--165- What was the date of that last mortgage?

Mr. Gibson: 15th of June 1944.

Q--166- How much was that mortgage for?

Mr. Gibson: \$19,500.00.

Q--167- Did that represent the balance owing at that point? A-- No.

40 Q--168- Why was it taken? A-- It was \$34,500.00, and I had told my brother that the property owed me about \$50,000.00, and my brother the lawyer told me, 'If anything happens, the property isn't worth the mortgage, the London Life mortgage. If anything happens the Succession Duty will put you down whatever the mortgage would run at.' He said, 'You had better get this mortgage, so if anything happens your estate won't be stuck with all the Succession Duty'. That's why I did that.

Plaintiff

Q--169- What did the \$19,500.00 represent? Did it represent anything? A-- It should have been \$50,000.00, at that time, or more. That was only part.

Q--170- Did you discharge the \$34,500.00 mortgage? A-- I don't know about that.

Q--171- Was it R.J. that arranged that? A-- No, it was my brother the lawyer. He asked me to do it. I didn't think it was the right thing to do, but he said the Succession Duties, they were having so much trouble with mortgages, and the property wasn't worth it.

10

Q--172- What is his full name? A-- Thomas J.

Q--173- So that these transactions were handled by Thomas J? A-- That was.

Q--174- Just that one? A-- Just that one, I think. I wouldn't be sure whether the other was handled by him.

Q--175- How did that happen to be drawn, that \$19,500.00 mortgage? A-- He cut it down \$15,000.00.

Q--176- Who cut it down? A-- My brother.

Q--177- You mean Albert cut the mortgage down \$15,000.00? A-- No.

20

Q--178- Who drew that mortgage in June '44? A-- That would be Mr. Dwyer.

Q--179- Was it ever registered?

Mr. Gibson: No.

Q--180- Is there any other mortgage that was never registered? A-- I couldn't tell you.

Q--181- Did Mrs. Glover sign that mortgage?

Mr. Gibson: No.

Q--182- At the time you took the \$19,500.00 mortgage on the 15th of June '44, how much did Albert owe you? A-- I don't know.

30

Q--183- Had you made it up? A-- I hadn't bothered about it, but I told Albert it would come to \$50,000.00.

Q--184- Had you ever given Albert a statement of account? A-- He knew that he had lost it all, because he said so different times.

Q--185- Did you ever give him a statement of account?

A-- I gave him a statement of account of coal and things like that.

40

Q--186- I mean as to how he stood with you? A-- He never asked.

Q--187- Did you ever give Albert a statement of account?

A-- Not of the account, no.

Q--188- Any of the mortgages? A-- No.

Q--189- The only account you gave him was maybe coal or something like that? A-- When it was changed, then I gave him a statement of what it cost.

Plaintiff

Q--190- When it was changed over into apartments?

A-- Into apartments, yes."

That is all, my Lord, that I wish to read there.

HIS LORDSHIP: 162 to 190; is that right?

MR. SMITH: I was going to read 195:

"Q--195- How did Albert happen to go down to Mr. Dwyer's office in June '44? A-- Dwyer said he had the papers ready to sign.

10

Q--196- You mean you had had Mr. Dwyer prepare the mortgage, and you asked Albert to go down? A-- Yes; he said the papers were ready to sign.

Q--197- Mr. Dwyer was your solicitor? A-- Yes.

Q--198- Had Albert ever been there before? A-- O yes.

Q-- When?

Q--199- When? A-- I don't know.

Q--200- Do you know that he had ever been there before?

A-- O yes. He had often talked to Mr. Dwyer.

Q--201- Do you know if he had ever been in Mr. Dwyer's office as a client? A-- I don't know that.

20

Q--202- You had, of course, been in Mr. Dwyer's office as a client? A-- Not very often.

Q--203- He was at that time acting as your solicitor?

A-- Yes, but it was at his suggestion that I went to Mr. Dwyer.

Q--204- You had already had the mortgage prepared at Mr. Dwyer's office? A-- I just had it ready, that's all, to be signed.

Q--205- It was prepared on your instructions? A-- Yes.

30

Q--206- You instructed Mr. Dwyer to prepare the mortgage? A-- Yes; gave him the old mortgage and he prepared the new one.

Q--207- Is there anything you have not told me about the transactions between your brother and yourself? Is there anything further you can tell me to clear this up? A-- I don't think so, more than I always came to his assistance. All our relations were of the best.

Q--208- Any time you came to his assistance, you have told me about those times, have you not? A-- Yes, I have told you. I would never see him stuck.

40

Q--209- Did you go to Mr. Dwyer's office again in July 1944? A-- We were down there a couple of times.

Q--210- Why? A-- For papers to sign.

Q--211- Which papers? A-- The mortgage.

Q--212- You say in June you took a mortgage for \$19,500.00. Were there any other papers signed in Mr. Dwyer's office? A-- There was the Quit Claim Deed.

Plaintiff

Q--213- How did that happen to come into the picture?

A-- Because my brother had told Mr. Dwyer he wanted to have everything fixed up.

Q--214- Don't tell me what somebody told you; but as far as you were concerned, what had you to do with it?

A-- I hadn't anything to do with it. I was merely the vehicle through which he went down.

10

Q--215- I mean before he went down that day, had you seen Mr. Dwyer? A-- No.

Q--216- Had you been talking to him? A-- No.

Q--217- Sure? A-- He just asked me to go down.

Q--218- How did Mr. Dwyer happen to get the papers ready?

A-- I had asked him, in case anything happened, that mortgage didn't cover my interest; in case anything happened, where did my equity come in? He said a Quit Claim Deed.

Q--219- He advised a Quit Claim Deed? A-- He thought that was the way to fix it up.

20

Q--220- Did you tell him to go ahead and get it ready?

A-- Yes.

Q--221- Then did you tell Albert to go down and sign it?

A-- I told him the papers were down there to sign.

Q--222- Did you tell him to go to Mr. Dwyer's office?

A-- Yes. I took him down.

Q--223- And did you take Mrs. Glover with you? A-- Yes.

Q--224- Did you drive them down? A-- Yes.

Q--225- Did you go up with them? A-- Yes.

30

Q--226- You were in the room with them? A-- I was in the room part of the time, but I wasn't paying any attention.

Q--227- Were you in the room when the papers were signed?

A-- I don't know. Some of the papers I know I was there."

HIS LORDSHIP: That is 195 to 227.

MR. SMITH: That is to 227. Then, my Lord, I want to read on at 230:

Q--230- What do you know about the will? A-- I don't know anything about it.

40

Q--231- Were you there when the will was drawn? A-- I don't know anything about the will.

Q--232- Might you have been there when the will was drawn? A-- I couldn't say. I don't know.

Q--233- Did you take Albert down there the day the will was drawn? A-- I took him down different times, but I don't remember.

Q--234- You don't remember taking him down when the will was drawn? A-- I think I took him down each time he went



Plaintiff

Q--235- Don't you remember being in the office with him and having that will drawn? A-- No, I don't remember that.

Q--236- Did you know he was making a will that day?

A-- All I remember is hearing Mr. Dwyer ask that question.

Q--237- Do you remember the will actually being prepared and signed? A-- No, I don't.

10

Q--238- So you may not have been there when the will was signed at all. He may have done that alone. A-- He may have. I don't know."

That is down to 238. Then, starting at Question 244:

Q--244- After this Quit Claim Deed was signed, was there anything owing by your brother to you, or did that release all his indebtedness? A-- I took it that released everything.

Q--245- You took it that released everything as of that date? A-- It wouldn't be everything.

20

Q--246- It wouldn't release everything he owed you?

A-- No.

Q--247- So that there was still an amount not included in the Quit Claim Deed? A-- Yes.

Q--248- When you took over the London Life mortgage in 1934 or 1935, have you kept that paid? A-- Kept that paid.

Q--249- You paid all the expenses? A-- Everything has been paid up to date. There is still owing \$12,000.00.

30

Q--250- In these transactions did you have anything to do with the plaintiff Evelyn Glover? A-- No.

Q--251- What about the plaintiff Albert Glover junior? A-- None at all."

The last question is the end of the examination, question 251. That is the case, my Lord.

HIS LORDSHIP: Very well, defence.

40

MR. RIGNEY: I beg, my Lord, to move for a non-suit at this juncture, and I do so on the basis of the Pleadings and issue joined, and the evidence called on behalf of the Plaintiff to sustain the allegations set out in their Pleadings. I assume they are before your Lordship?

HIS LORDSHIP: Yes.

MR. RIGNEY: And consequently, I do not think I am called upon to elaborate on them to any great extent, further than to point out that the issues are joined upon the allegations of fraud, misrepresentation, inadequacy of consideration, and lack of testamentary capacity, or lack of testamentary capacity insofar as the execution of the quit claim deed. I am reciting these several headings from memory, and

Plaintiff

without going into the reading of the particulars.

10 I am doing this, my Lord, for two-fold reason, the first of them being that it is the submission of the Defence, and it is made part of the record, that evidence adduced is insufficient to put the defendant to his defence in meeting them. That would involve perhaps a legal discussion as to misrepresentation and testamentary capacity and these other factors that I have enumerated, but I do not think in a motion of this kind at this

20 If your Lordship thinks otherwise, or desires that it should be done, I am prepared to do so, but I am raising them now chiefly because of my submission and belief that they are sufficient to meet the case, and I lay down, with respect, the general proposition that it is incumbent upon the plaintiff, before the plaintiff can succeed, to at least make out a prima facie case, and I am submitting to your Lordship that he has failed in that particular, and for that reason, that it is incumbent upon the

20 Defence to move, or at least go on record as moving that the proposition in law in this case, having regard to the onus resting on the plaintiff, calls or entitles the defendant to a dismissal. If your Lordship should entertain a different view, I do not want to find myself in the position of being debarred from adding evidence, which I am prepared and willing to do, if the legal situation calls for it, but I am basing my motion purely on legal grounds, and without prejudice, of course, to my rights to adduce evidence if you deem it necessary.

30 HIS LORDSHIP: Well, I think probably the better course for me to pursue would be to reserve judgment on your non-suit, reserving the right, of course, to rely on your motion, and the strict legal position that you say the plaintiff is in at this time. If you were to announce you were not going to call evidence, then, of course, I would have to deal with your motion. You are content, are you?

MR. RIGNEY: Oh, quite, if you think well of it, and will allow a little time to consider it - I have given it as much consideration as I have had time during the progress of the trial.

40 HIS LORDSHIP: There is one very suspicious circumstance that strikes me - the failure on the part of the brother to register the quit claim deed until after the decease of Albert Glover seems to me to require some explanation. That is out of the ordinary, and for which, of course, there may be a very good explanation. Then it is also alleged in the Statement of Claim that the defendant was trusted by the deceased. Whether that is so or not, it is difficult to conclude on the

Plaintiff

10 evidence so far, but there is some suggestion in the evidence, by reason of the fact that the defendant handled some of the rents. The relationship may, on the evidence, therefore, go somewhat further than simply establishing that there was confidence between the two of them. There must be proof of the betrayal of that confidence in some way. However, there is evidence on which I might hold, prima facie, at any rate, that there was a relationship existing between these two parties. I am not making any ruling at the moment. I am reserving my decision on that.

MR. SMITH: May I assist your Lordship by giving you a reference, the case of Brown and the Premier Trust Company. That is a decision of the Chief Justice of the High Court, and it is reported in 1947 O.R., the first part, at page fifty. I would also like to just give you a reference in regard to that same point. It is Kinsella vs. Paske, 28 Ontario Law Reports, at page 393.

HIS LORDSHIP: Very well, Mr. Smith.

20 MR. SMITH: If your Lordship would like, after the adjournment, I will have the report.

HIS LORDSHIP: Yes. Brown and the Empire Trust Company was a will case?

MR. SMITH: No, it is a case where some shares were transferred.

HIS LORDSHIP: A great deal in a case of this kind depends upon the onus. You say the onus is on the party seeking to uphold the transaction?

30 MR. SMITH: Yes. There was also a case of Clyde vs. Clyde, in 1945 O.W.N., in which I was interested myself. I have a number of cases, but I do not think it is necessary to refer you to those at this moment. The Clyde case, it is page 517 in 1945 Ontario Weekly Notes.

HIS LORDSHIP: Very well, Mr. Rigney.

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H. Parent, dir-ex, Defendant

D E F E N C E

HELEN PARENT, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. GIBSON,  
OF COUNSEL FOR THE DEFENDANT:

Q-- Miss Parent, were you employed in the office of W.O. Dwyer? A-- Yes.

Q-- In what capacity? A-- Stenographer.

10 BY HIS LORDSHIP: Q-- When did Mr. Dwyer die? A-- August 13th, 1946.

BY MR. GIBSON: Q-- How long had you been with Mr. Dwyer before his death? A-- It was six years last July.

Q-- Six years last July? A-- Yes.

Q-- And in 1944, were you the only stenographer in Mr. Dwyer's office? A-- No, I was not. Mr. Dwyer had hired Mrs. Pappineau.

Q-- Mrs. Pappineau? A-- Yes.

Q-- What is her first name? A-- Helen V. Pappineau.

20 Q-- How long was she in Mr. Dwyer's office? A-- I believe she started in May, 1944, until November or October.

HIS LORDSHIP: Speak up. Mrs. Helen V. Pappineau was there from May, 1944, until when? A-- Until November, 1944.

BY MR. GIBSON: Q-- Have you been a resident in Kingston all your life? A-- Yes, sir.

Q-- And did you know Albert Glover? A-- Yes, I did.

Q-- Senior? A-- Yes, sir.

Q-- Did you ever see him in Mr. Dwyer's office? A-- Yes, I did, several times.

30 Q-- Very often? A-- Oh, a few times. I could not say how many.

Q-- Did he come in on business sometimes? A-- I believe several times he did come in on business.

Q-- Did he come in for any other reason? A-- Perhaps just to have a chat with him, I think, a few times.

Q-- A chat with Mr. Dwyer? A-- Yes.

40 BY HIS LORDSHIP: Q-- Do you know if he came in on business or just to have a chat? A-- Well, Mr. Dwyer gave me some dictation several times after Mr. Glover went out.

Q-- In reference to some matter that had been discussed between them? A-- Yes.

H. Parent, dir-ex, Defendant

BY MR. GIBSON: Q-- And do you know Mrs. Glover, Mrs. Evelyn Glover? A-- Yes, I believe I do.

Q-- Did you ever see her in Mr. Dwyer's office? A-- Yes, sir.

Q-- How many times? A-- It would be several times, but I just really remember her coming in once with Mr. Glover.

Q-- Once with Mr. Glover? A-- Yes.

Q-- Do you recall when that was?

10 BY HIS LORDSHIP: Q-- Did you say that she was only in there once with Mr. Albert Glover? A-- Yes, as far as I can recollect.

BY MR. GIBSON: Q-- And on that occasion, was there anyone else there? Did anyone else come in? A-- Do you mean, besides Mr. and Mrs. Glover?

Q-- Yes. A-- Well, Doctor Glover came in several times.

Q-- Well, at the time Mr. and Mrs. Glover were in there, who was with them, if anybody? A-- I think Doctor Glover came in with them.

20 Q-- And what was done at that time? A-- Well, Mr. Dwyer called me in to witness their signature on a quit claim deed.

Q-- And who was in the room then? A-- I just do not recollect, but I think there was just Mr. and Mrs. Glover, as far as I remember.

Q-- And where did it take place? A-- In Mr. Dwyer's office.

Q-- I show you a document, exhibit eleven. What do you say about that? A-- That is my signature, sir.

Q-- That is your signature? A-- Yes, sir.

30 Q-- Who are the other signatures there? A-- Albert Glover and Evelyn Glover.

Q-- And turn over to the back, and what is that?

A-- That is my signature.

Q-- And what is that? A-- That is an affidavit by me of execution, as a witness to the signatures of Albert and Mrs. Glover.

Q-- Do you know who typed this document? A-- I just do not recall - I do not believe I typed it.

40 BY HIS LORDSHIP: Q-- Did you hear the document discussed at all between Mr. Glover and his brother? A-- No, I did not.

Q-- Or between Mr. Dwyer and Albert Glover? A-- No, sir, I did not.

Q-- You did not hear any discussion at all? A-- No.

Q-- Was there any discussion, do you know? A-- I believe there must have been, but -

Q-- No, not there must have been - I mean, do you know yourself that there was? A-- Yes, sir.

H. Parent, dir-ex, Defendant

Q-- There was some discussion? A-- Yes.

Q-- How long did it last? A-- I would say they were in the office about an hour on the morning they signed that.

Q-- They were in the office about an hour on that morning? A-- Yes.

Q-- That is, Doctor Glover and Albert Glover and Mrs. Glover? A-- Yes.

Q-- All right, go ahead.

10 BY MR. GIBSON: Q-- Were there any documents signed out in the hall that you know of? A-- Not that I can remember, sir.

Q-- Did you see any there? A-- No.

Q-- Did you witness any document signed out in the hall? A-- No, sir.

BY HIS LORDSHIP: Q-- Was there an outer and inner office? A-- Well, there were three offices.

Q-- And an outer office? A-- Yes.

Q-- And a railing? A-- No, the stenographers were in the outer office.

20 BY MR. GIBSON: Q-- Where is there a railing, if there is any? A-- Just going up the stairs.

Q-- Going up the stairs? A-- Yes

Q-- When you reach the top of the stairs, is there a railing? A-- Yes, along the side, as you go into door.

Q-- Are there any tables out in that hall? A-- No, sir.

Q-- Did you ever move any tables out there? A-- No, sir.

Q-- How well do you know Mrs. Glover? A-- Just from coming in the office a few times, that is all.

Q-- Do you just know her to see her? A-- Yes, sir.

30 Q-- What was she doing in the office? A-- Well, I believe she just came in with her husband to sign that paper, the quit claim deed.

Q-- After that, did she come in? A-- Well, the only time I can recall is just before Mr. Dwyer died, I believe she came into the office.

Q-- Just before Mr. Dwyer died? A-- Yes.

BY HIS LORDSHIP: Q-- She came in again? A-- Yes.

BY MR. GIBSON: Q-- And did she come in alone then? A-- Yes.

40 Q-- And did she see Mr. Dwyer? A-- Yes, she did.

Q-- Do you know what transpired between them, or did you hear them talk? A-- No, I did not hear them talk.

Q-- Where did the conversation take place? A-- In Mr. Dwyer's own office.

Q-- In his own office? A-- Yes.

Q-- Were there any other occasions that you can remember that she was in there? A-- No, sir, I cannot recall any other.

H. Parent, dir-ex, Defendant

Q-- You cannot recall any other occasions?

HIS LORDSHIP: Q-- There were just two that you know of?

A-- That I can remember, yes.

MR. GIBSON: That is all.

CROSS-EXAMINATION BY MR. SMITH:

Q-- Now, Miss Parent, that last time Mrs. Glover came in, she was looking for some money, wasn't she? A-- I believe so, yes.

10 Q-- And that was long after Mr. Glover was dead? A--Yes.

Q-- And she had no money to get along on, and she wanted to raise a little? A-- I believe so.

Q-- And, Miss Parent, I suppose you do not recall what was going on in Mr. Dwyer's office at any given time when clients were in there? A-- No, sir, I really do not.

Q-- Your quarters are across the hall? A-- They are in another room altogether.

Q-- In another room? A-- Yes.

20 office? A-- No, I would not.

Q-- And he was quite chatty, was he not - Mr. Dwyer?

A-- Yes.

Q-- And often talked to a client for an hour? A-- Yes, he would.

Q-- And he liked to talk to people? A-- Yes.

Q-- He loved to talk to people, didn't he? A-- Yes.

Q-- And usually wanted to talk about everything except business? A-- Sometimes, sir.

30 the quit claim deed was signed, except after her husband's death? A-- I believe so, yes.

Q-- All right.

HIS LORDSHIP: Was the will put in?

MR. SMITH: The will was put in. It is a copy.

---- The witness retires. -----

MRS. HELEN BERNICE PAPINEAU, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. GIBSON,

40 OF COUNSEL FOR THE DEFENDANT:

MR. SMITH: If her evidence is to be as to the will, I object. The will is not before the court.

H. Papineau, dir-ex, Defendant

HIS LORDSHIP: It is not as to the validity of the will, but the fact that the will is in and is dated subsequent to the quit claim deed seems to be of some significance.

BY MR. GIBSON: Q-- You are presently residing in Toronto?  
A-- Yes, sir.

Q-- And in 1944, where were you? A-- In Kingston.

Q-- Your husband was with you? A-- Yes, sir, he was in Barriefield.

10 Q-- Prior to that, had you resided in Kingston? A-- No, sir, Toronto.

Q-- And since 1944, have you resided in Kingston?

A-- No, sir.

Q-- And were you employed by W.O. Dwyer? A-- Yes, sir.

Q-- During what period? A-- From May, 1944, to November, 1944.

Q-- Did you know very many people in Kingston? A-- Well, I knew a few.

Q-- That you got to know? A-- Yes.

20 Q-- Do you remember witnessing a will - did you know Albert Glover before 1944? A-- No, sir.

Q-- You did not know him? A-- No, sir.

HIS LORDSHIP: You will have to get the original will. Have this witness step down, and you can call the Registrar first. You may step down, and you will be called again this afternoon.

---- The witness temporarily retires.

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ALFRED ALLORE, a witness being called and duly sworn, testifies as follows:

30 DIRECT-EXAMINATION BY MR. GIBSON,

OF COUNSEL FOR THE DEFENDANT:

Q-- Now, Mr. Allore, you live in Camden East? A-- Yes.

Q-- And what is your occupation? A-- Painter and Decorator.

Q-- And did you know the late Albert Glover? A-- Yes.

Q-- For how long a time did you know him? A-- In the neighbourhood of twenty-five years.

Q-- In the neighbourhood of twenty-five years? A-- Yes.

40 Q-- Did you ever do any work up at the apartments on Earl Street? A-- I did.

Q-- When did you commence doing that? A-- I think I commenced in 1941 - 1941 was the first, and then I think it was either 1942 or 1943.



A. Allore, dir-ex, Defendant

Q-- What type of work did you do? A-- Well, I took off paper and papered it, and burned off paint and painted it over, and finished the floors and waxed the floors, and such like.

Q-- How did you find out what you were supposed to do? A-- Well, it was left to me.

Q-- It was left to you? A-- Yes.

Q-- By whom? A-- By both Mr. Glovers.

Q-- By both Mr. Glovers? A-- Yes.

10

Q-- Who asked you to come in from Camden East? A-- Well, the first time they both came after me. They drove out, and they both asked - they both talked to me. That is in 1941. Well, in the winter of 1942, the Doctor 'phoned me.

Q-- And you came in? A-- Yes, sir.

Q-- And how many jobs have you done for them? A-- Well, I have worked for them - for Mr. Albert Glover, in 1928, and I worked for him in 1930, and then I started to work for him again in 1941, and I have been working from then on, until he passed out.

20

Q-- From 1941, and you are still working for Doctor W. R. Glover, are you? A-- Yes - not steadily - but there was one year I worked steadily for him.

Q-- Who 'phoned you? A-- Doctor Glover.

Q-- Does he pay you by cheque or by cash? A-- By cheque.

Q-- When did he first pay you? A-- In 1941.

Q-- In 1941? A-- Yes.

BY HIS LORDSHIP: Q-- What buildings were those?

A-- Apartment houses.

BY MR. GIBSON: Q-- Which ones? A-- It is 170 and 174.

30

Q-- Earl Street? A-- Earl Street.

Q-- Did you ever use to have conversation with Albert Glover? A-- Oh, yes, I had.

Q-- And did he ever comment on your work? A-- Oh, yes, he always praised my work up, and the likes of that, and we used to decide on what to do, you know - what kind of work he wanted done, I would ask him, and then he would generally ask my opinion about it, and whatever I said went.

HIS LORDSHIP: We will adjourn now.

40

(Whereupon the further proceedings were adjourned at one o'clock P.M., to resume at 2:30 o'clock P.M.)

(On resuming at 2:30 o'clock P.M.)

HIS LORDSHIP: Very well, Mr. Gibson.

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A. Allore, dir-ex, Defendant

The witness Alfred Allore, resumes stand,

BY MR. GIBSON: Q-- You are already sworn, Mr. Allore. What have you to say about Albert Glover's ability as a workman? A-- Well, I would say that he was a good workman, and a good tradesman.

10 Q-- When you were doing work for him, did he ever point out anything about your work? A-- Yes, he would. He would sometimes come along and check me up, when he wanted it the other way, but generally he left it to me.

Q-- How would he come along and check you up? A-- Well, maybe the colour would not suit him, and he would ask me to change it, and to make it a little lighter or a little darker.

Q-- Was there any architect on the work that you and he were doing? A-- No, he had no architect.

Q-- Who was telling you what to do? A-- Well, it was Mr. Glover who was the one who told me what to do.

Q-- He told you what to do? A-- Yes.

20 Q-- And how long did that continue? A-- Well, it started in 1941, the last time, and I worked until within two months before he died, off and on.

Q-- Off and on? A-- Yes.

Q-- And did you do any work during the last two months before he died? A-- Yes, I did - I did in October - the last of October and the 1st of November. That is the last work I did before he died. Q-- And where was that work done? A-- That was done in 174 Earl.

Q-- And what did that work consist of? A-- Well, painting and papering and enamelling.

30 Q-- Do you remember anything he had to say about that? A-- No, I do not remember anything he had to say about it. He was in there at different times.

Q-- Did he inspect it? A-- He inspected it, and he O'kayed it.

Q-- How did he O'kay it? A-- Well, he just said it was all right, and to go over to Mr. Glover and get my money.

BY HIS LORDSHIP: Q-- What apartment was that? A-- That is 174 Earl.

MR. GIBSON: All right.

MR. SMITH: No questions.

----- The witness retires.

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I. Samwell, recalled, Plaintiff

DOCTOR WILLIAM RYERSON GLOVER, a witness being called and duly sworn, testifies as follows:

MRS. IRENE SAMWELL, a witness having previously been sworn and given evidence, is now recalled.

BY MR. GIBSON: Q-- Have you the original will there of Albert Glover? A-- Yes. (producing)

Q-- That is the one that has been filed with you? A-- Yes.

10 HIS LORDSHIP: That may remain in court. Both counsel are satisfied that the copy of this document which is in as exhibit twelve is a true copy of the original will which Mr. Gibson now has in his hand?

MR. SMITH: Yes.

MR. GIBSON: Yes.

HIS LORDSHIP: That is a fact, isn't it?

MR. GIBSON: Yes.

MR. SMITH: Yes.

----- The witness retires. .

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20 MRS. HELEN BERNICE PAPINEAU, a witness being previously sworn, and given evidence, is now recalled,

BY MR. GIBSON: Q-- Mrs. Papineau, I show you a document. What have you to say about the last signature on the left hand side? A-- That is my signature.

Q-- That is your signature? A-- Yes.

Q-- Do you remember the circumstances under which you wrote your name there? A-- Well, I recall Mr. Dwyer calling me into the office to witness this will, and I signed it.

30 Q-- How do you recall it? A-- Well, I don't just understand what you mean -

Q-- Well, what did he say to you? A-- Well, he just asked me if I would witness Mr. Glover's will, and Mr. Glover signed it, and then Mr. Dwyer signed it, and he handed it to me, and I signed it.

Q-- And who else was in the room? A-- No one else.

Q-- No one else? A-- Just Mr. Dwyer and Mr. Glover and myself.

Q-- Is that the first time you saw Mr. Glover? A-- Yes, sir.

30 Q-- Have you ever seen him since? A-- No, sir, not that I remember, anyway.

H. Papineau, recalled, Defendant

Q-- Not that you can remember. Do you know what he looks like, or did look like? A-- No, sir, I could not remember that.

Q-- I show you now exhibit eleven, a quit claim deed. Can you tell the Court now whether you typed that or not? A-- No - I would not be sure - I do not think I did.

Q-- You do not think you did? A-- No, sir.

Q-- That is all, thank you.

MR. SMITH: No questions.

10 ----- The witness retires.  
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DOCTOR WILLIAM RYERSON GLOVER, a witness having previously been sworn, but not having given evidence, now resumes the witness stand:

DIRECT-EXAMINATION BY MR. GIBSON,

OF COUNSEL FOR THE DEFENDANT:

Q-- Doctor Glover, how old are you? A-- Seventy-two.

Q-- Seventy-two years of age, and what is your present occupation? A-- Dentist.

20 Q-- What university did you attend? A-- Queen's for two years, and then I went into dentistry at Toronto.

Q-- The University of Toronto, and when did you graduate -

MR. SMITH: I admit Doctor Glover is a good dentist.

MR. GIBSON: Thank you.

BY MR. GIBSON: Q-- And when did you graduate from the University of Toronto? A-- '06.

Q-- '06, and have you been in practice ever since?

A-- Yes.

Q-- Are you still practising? A-- Still practising, yes.

30 Q-- Where are you practising now? A-- Since the - at the corner of King and Johnson - 264 King Street East.

Q-- How long have you been in that location? A-- Since the spring of '09.

Q-- Since the spring of '09, and what sort of practice have you had? A-- A good practice.

Q-- A good practice. What about financially? A-- Good. I employed an assistant for all those years.

Q-- When did you first employ an assistant? A-- Oh, possibly 1910 - anyway, through the first war.

Q-- Through the first war? A-- Yes.

40 Q-- Was that a busy time? A-- We had a very busy time.

Q-- Who was that assistant?

W. Glover, dir-ex, Defendant

MR. SMITH: I admit that Doctor Glover is a successful dentist.

BY MR. GIBSON: Q-- Doctor Vosberry was your assistant then until 1930, or approximately that? A-- Well, I do not think it is in 1930, I would not be sure of the year - fourteen years, anyway.

Q-- Fourteen, years, anyway.

10 BY HIS LORDSHIP: Q-- What is fourteen years? A-- I had an assistant, Doctor Vosberry -

BY MR. GIBSON: Q-- And have you had an assistant since then? A-- On two different occasions, for parts of a year.

Q-- What was, or what were the names of those assistants? A-- Doctor Gowan, and Doctor Warrenner.

Q-- All right, Doctor. Now, you are a brother of Albert Glover? A-- Yes.

Q-- And who were or are your other brothers? A-- "T.J." is in Toronto - Thomas James.

Q-- What was his occupation? A-- Lawyer.

20 Q-- And who else - is he alive? A-- Yes.

Q-- Where is he now? A-- Apartment 2, 174 Earl Street.

Q-- What is the state of his health? A-- Not very good just now.

BY HIS LORDSHIP: Q-- He is not practising in Toronto? A-- He is not practising in Toronto.

BY MR. GIBSON: Q-- Is he in bed? A-- Part of the time, and he is up part of the time.

Q-- Does he go outside at all? A-- Not recently, no.

Q-- Did you have any other brothers? A-- Robert John.

30 Q-- Where is he now? A-- He died a number of years ago

Q-- Now, about 1920, did you have any transaction with Albert Glover? A-- Yes, I did.

Q-- And what was that? A-- I bought the corner grocery store, at Bagot and Earl.

Q-- Who owned it before you bought it? A-- Mr. William B. Webster.

Q-- And who owned it before Mr. Webster? A-- My brother owned it, and then sold it to Webster in 1919, and nine months after, I bought it back for my brother, because he was - well, 40 he was worried, and had nothing to do, and wanted to get back.

Q-- Well, what did he do with the money that he got when he sold it to Mr. Webster, do you know? A-- Well, I held notes. Robert owed him around eight thousand dollars, or something like that, and he sold the store -

Q-- Owed whom? A-- Owed my brother, Robert.

Q-- Owed your brother Robert? A-- Yes.

W. Glover, dir-ex, Defendant

MR. SMITH: My Lord, I do not want to object, but how can this witness say what Albert owed Robert.

HIS LORDSHIP: Not very well, I would think.

MR. GIBSON: He said he held notes.

HIS LORDSHIP: Unless Albert told him. All right, go on. I will take it subject to objection.

THE WITNESS: They were just in my box, that is all.

10 BY MR. GIBSON: Q-- What was in your box? A-- These notes, promissory notes, that my brother Albert had borrowed from Robert.

Q-- There were promissory notes in your box from Albert to your brother? A-- Yes, he kept them there for safekeeping.

Q-- Now, we have got to the point where he sold the grocery store, and then what? A-- I believe - I told my brother Albert that he should pay these notes off. He wanted to know if he needed money, and I told him it was only business to straighten these things up.

20 MR. SMITH: What this witness told Albert is not evidence against my client, my Lord.

BY MR. GIBSON: Q-- In 1920, what did you do in relation to your brother, if anything? A-- I bought the store.

Q-- You bought the store? A-- The store and the stock-everything in it.

HIS LORDSHIP: I take it, Mr. Smith, that your status in this action - you are the sole heirs of Albert Glover, deceased. In other words, you are asserting your rights as heirs-at-law of Albert Glover?

MR. SMITH: The widow is asserting her right as a grantor.

30 HIS LORDSHIP: Yes. She never owned this property, nor did Doctor Glover, junior.

MR. SMITH: She had a dower interest.

HIS LORDSHIP: Yes, but it seems to me that she is not bound by anything that the deceased husband may have done or said. All right, go on.

Q-- You told Albert to pay the notes off? A-- Yes, and he did, or most of them, anyway. I saw that they were paid.

W. Glover, dir-ex, Defendant

BY MR. GIBSON: Q-- Then you have told the Court you re-purchased the store, from whom? A-- From Mr. W. B. Webster.

Q-- Now was that paid for? A-- It was paid for - five thousand dollars cash, and I assumed a mortgage.

Q-- How much was the mortgage? A-- The mortgage was four thousand.

Q-- Who held the mortgage? A-- Mrs. McNee(?).

10 Q-- And what else? A-- Well, the interest was paid on that mortgage.

Q-- Is that all - nine thousand dollars? A-- Well, paid for the stock and all - it ran into thirteen thousand dollars or more.

Q-- Did you buy the stock? A-- Yes, I bought the stock. The stock ran about three thousand dollars. The store, as I understand it, was eight thousand dollars, and two thousand dollars for goodwill.

Q-- Did you ever pay this mortgage? A-- Yes.

Q-- When did you pay it? A-- It was paid off in 1924.

20 Q-- And you paid it? A-- I did.

Q-- And whose money did you use? A-- I paid it with two cheques.

Q-- Well, whose money? A-- Well, my money.

Q-- And then along about 1926 or 1927, did you and Albert have something to do in a business way? A-- Yes, 174 Earl Street -

BY HIS LORDSHIP: Q-- Was this 1926? A-- I think that would be the date.

30 BY MR. GIBSON: Q-- Just going back a moment. The grocery store property, to whom was it deeded from Mr. Webster? A-- To my brother.

Q-- Albert. Was it deeded to him or to you? A-- To him.

BY HIS LORDSHIP: Q-- Did you take your brother's note? A-- I did not take anything, until later.

Q-- Until later? A-- Yes.

40 BY MR. GIBSON: Q-- Now, coming along until 1926 or 1927, what did you say happened? A-- Well, in 1926 - I think it would be early in 1926 - my brother wanted to convert 174 Earl into apartments.

Q-- Albert? A-- Yes, Albert.

Q-- What was 174 Earl? A-- That was just a large dwelling house.

Q-- And who lived there? A-- Well, it was the McRae property, but it had been rented to students.

Q-- Who lived there? A-- Well, different parties lived in it.

Q-- Who owned it? A-- My brother owned it.

W. Glover, dir-ex, Defendant

Q-- Were there tenants? A-- Yes, tenants.

BY HIS LORDSHIP: Q-- When you speak of your brother, you refer to Albert? A-- Yes, Albert.

BY MR. GIBSON: Q-- You say you were going to convert it, and what happened? A-- Well, he succeeded in getting twenty-five thousand dollars from the London Life, and then he had it finished -

10 Q-- What did he do with the twenty-five thousand dollars?  
A-- Well, he used it in converting this house into apartments.

Q-- What did he have to do with the house? A-- Well, he had - he built a big addition to it, and tore out the partitions, and changed it all around.

Q-- And did he spend the money on it? A-- He spent the money on it, yes.

Q-- And is that all he spent? A-- It was all gone before he finished it.

20 Q-- It was all gone before he finished it. Did he finish it? A-- About a year, or nearly a year after he started it, he came to me for money.

Q-- Yes, and did you give him any? A-- I did.

Q-- How much? A-- Eight thousand dollars.

Q-- Did you take any security? A-- No.

Q-- Did you take any security along about that time for any loan? A-- No.

Q-- When did you first take a security? A-- It would be sometime after that. I would not be sure of the date.

30 Q-- Well, what was it? A-- It was all computed into one mortgage.

Q-- And how much was that mortgage? A-- Twenty-five thousand dollars.

BY HIS LORDSHIP: Q-- When was that? There was a second mortgage in 1938. What year is this? What year are you talking about? A-- I would not be sure of the year - it would be around perhaps 1927 or 1928 - it was a year or so after the -

BY MR. GIBSON: Q-- I show you a document. (producing)

40 HIS LORDSHIP: We have two mortgages in here - one July 1st, 1931, and another one, July 11th, 1938 - exhibits nine and ten. There is one in 1926, and one in 1938. This document is not in yet. It is referred to in the Abstract, but it is not in yet.

BY MR. GIBSON: Q-- I show you a document? A-- What is the date of this one?



W. Glover, dir-ex, Defendant

Q-- That is the 1st of January, 1927, a mortgage between Albert Glover and Evelyn Glover, to William R. Glover, dentist, registered 23rd August, 1928, as number 44453. Is that the mortgage you are referring to? A-- Yes.

HIS LORDSHIP: That is exhibit fourteen.

-----Exhibit Number (14):- Mortgage dated January 1st, 1927, between Albert Glover and Evelyn Glover, and William R. Glover.

10 HIS LORDSHIP: Is that the duplicate original?

MR. GIBSON: Yes, it is a duplicate original.

HIS LORDSHIP: It can go in then. That is exhibit number fourteen.

BY MR. GIBSON: Q-- Then, after that, coming along to about 1930 or 1931, and continuing, did you and Albert have any financial transactions? A-- Yes, he changed his own house into an apartment.

20 BY HIS LORDSHIP: Q-- When was that, Doctor? A-- 193 - I imagine it would be 1931, or somewhere along there - I am not so sure of those dates.

BY MR. GIBSON: Q-- And where did he get the money? A-- Well, he went as far as he could on credit.

Q-- On his credit? A-- Yes, and then he was very much depressed, and he said that he did not have any money to go on.

Q-- Did he get the money? A-- I gave him three thousand dollars to let him finish it.

Q-- Did you give him any other amounts? A-- Not at that time.

30 Q-- Well, continuing on a little further, were there any other amounts? A-- Well, I went security for One Hundred dollars on the store.

HIS LORDSHIP: Speak up, Doctor. You gave him three thousand dollars, and what happened since then -

BY MR. GIBSON: Q-- Just bring your attention to the period of 1931, 1932 and 1933. Were there any other amounts? A-- Yes.

Q-- What were they? Will you tell the Court what they were? A-- Well, there is that one - he asked me to go security for him, for the goods in the store.

40 Q-- Was that about that period, or was it later? A-- That was later.

W. Glover, dir-ex, Defendant

Q-- Just bring your attention to this period. Were there any expenses? A-- Well, there were expenses in the apartments.

Q-- Well, what were they in that period? A-- Well, -

Q-- Did you loan him any money? A-- Well, not after the three thousand.

Q-- There were no other items- A-- But I borrowed money to change his apartments.

Q-- What did you do with it? Where did you borrow it?

10 A-- I borrowed it from the Mutual Life, for one.

Q-- Yes. A-- And from the bank.

Q-- What bank? A-- We dealt with both banks.

Q-- What are both banks? A-- The Bank of Toronto and the Bank of Montreal.

Q-- Kingston? A-- Kingston.

Q-- Is that correct? A-- Yes.

Q-- And when you borrowed from the bank, how did you arrange the loan? A-- Well, in the changing of the apartments, I paid for all those things.

20 Q-- When you went to the bank, did they give you any money? A-- Well, they gave him the note.

Q-- Who did they give it to? How did they arrange the transaction? A-- Well, I placed the money to his account. That was the first time. The eight thousand dollars was placed to his account.

Q-- Let us just stay at one period, Doctor - 1931 to 1934 - which bank did you borrow from there? A-- It would be the Bank of Toronto.

30 Q-- The Bank of Toronto -- how much? A-- Well, at different times -

Q-- Well, there were various loans. How did you arrange them? A-- I arranged them -

Q-- Did you give any security? A-- I always gave bonds for security.

Q-- To whom was the money given? A-- It was given to - that was paid - I looked - that was 1931, wasn't it?

Q-- Yes, it is quite a while ago, I admit, Doctor -

40 BY HIS LORDSHIP: Q-- Do you mean you gave him three thousand dollars cash? A-- Yes, that was cash.

BY MR. GIBSON: Q-- Did you have any notes? Did you give him large bills? A-- No. I arranged it with his account.

Q-- It was put in his account? A-- It was put in his account, yes, that three thousand dollars was.

Q-- And what else? Did you pay anything directly, or do you recall at the moment? A-- Well, when he changed the apartment, I paid for the expenses.

Q-- Let us come on to about 1934 and 1935 -

50 HIS LORDSHIP: Wait a minute. The first amount that you advanced was five thousand dollars, and that was on account of the purchase from Mr. Webster. That is right, isn't it? A-- Yes.

W. Glover, dir-ex, Defendant

Q-- And then nearly a year later you gave eight thousand?  
A-- Well, the store was all paid for -

Q-- I do not care whether the store was paid for or not.  
You gave him five thousand dollars the first time? A-- Yes.

Q-- And then you gave him eight thousand dollars? A--  
Yes.

Q-- And the next time you gave him three thousand dollars?  
A-- Yes.

10 Q-- That is twenty-one thousand dollars so far, up to  
1931, is that right? (No answer)

MR. GIBSON: That is sixteen thousand dollars.

HIS LORDSHIP: Yes, sixteen thousand dollars.

MR. GIBSON: I believe he also said that he assumed a  
mortgage, and he paid it off in 1924, the McNee mortgage.

HIS LORDSHIP: That makes twenty thousand dollars.

MR. GIBSON: And then he purchased the stock with the  
store, the total purchase price being thirteen thousand dollars,  
which included the land and the mortgage.

20 HIS LORDSHIP: All right, go on.

BY MR. GIBSON: Q-- Then, in 1933, did you pay anything  
that you can recall? A-- The taxes.

Q-- What were they, how much? A-- I think they were  
sixteen hundred and something.

Q-- Sixteen hundred? A-- Or more.

BY HIS LORDSHIP: Q-- Did you ever keep any books, Doc-  
tor? A-- I kept the records after I was looking after the fin-  
ances for him.

30 Q-- Do all these moneys advanced depend upon your memory?  
Is there nothing to show in your books about these advances?

A-- They were advanced and then incorporated in the mortgage -  
twenty-five thousand dollars -

Q-- That is, to 1927? A-- Yes.

Q-- We have gone past that now. We have got the three  
thousand dollars you advanced in 1931? A-- Yes.

MR. SMITH: I think he means that they were all incor-  
porated in the twenty-five thousand dollars.

40 HIS LORDSHIP: How could he incorporate moneys he had  
not yet advanced? He had not got it until 1931, so he said.  
What I have just been asking you is, did you have something you  
used to keep track of these advances? You must have had some-  
thing, some books, or something. A-- Well, there was no book-  
keeping on that. My brother knew about it, and I knew about it,  
and we did business rather loosely, of course.

W. Glover, dir-ex, Defendant

BY MR. GIBSON: Q-- But you made the transactions through the bank? A-- Yes.

Q-- All right. Now, do you remember - when was the next sum you paid? A-- The changing of the apartments, I think.

Q-- When were they? A-- I think - 174, I think, was about 1942, and then the other -

Q-- Just a moment. Let us go back now. Was there any other mortgage transaction after this twenty-five thousand?

10 A-- Well, yes, another mortgage, and the three thousand dollars was included in it.

Q-- And what was the amount of that mortgage? A-- That would be the \$34,500.

BY HIS LORDSHIP: Q-- The mortgage was for \$34,500? A-- Yes.

BY MR. GIBSON: Q-- When was that given? A-- I would not be sure of the date of that.

Q-- Well, roughly, Doctor? (No answer)

20 HIS LORDSHIP: There is one put in evidence, July 1st, 1931, exhibit nine - A-- That would be it.

Q-- That would be it? A-- Yes.

BY MR. GIBSON: Q-- What did that represent? A-- That represented the interest on the first mortgage, and the three thousand dollars.

BY HIS LORDSHIP: Q-- And the three thousand you advanced in 1931, just before that? A-- Yes.

30 BY MR. GIBSON: Q-- Now, after 1931, you said there was an item for taxes you paid? A-- Yes, that was the Bank of Toronto.

Q-- And how much was that? A-- I think it was sixteen hundred.

Q-- You think it was sixteen hundred. Do you know what the year was? A-- That would be about 1933 or 1934.

Q-- 1933 or 1934? A-- Probably 1933.

Q-- What property was that upon? A-- On the Earl Street apartments.

Q-- What is the number of the Earl Street apartments? A-- 174 and 170 and 172 Earl.

40 BY HIS LORDSHIP: Q-- Was that apartment yours or his, that Earl Street apartment? A-- Well, it was in his name.

Q-- That is not what I asked you. A-- Well, it would be his.

Q-- It was his? A-- And I had the second mortgage.

W. Glover, dir-ex, Defendant

BY MR. GIBSON: Q-- Are there any other sums along in that period that you can recollect now? A-- At what date would that be?

Q-- Well, around 1933 or 1932, or somewhere in there?  
A-- No, I do not think there is anything after that until the -

BY HIS LORDSHIP: Q-- What is your last answer, Doctor?  
A-- I do not think there was any more until the London Life went to foreclose.

10 BY MR. GIBSON: Q-- What is that again, Doctor? A-- The London Life were foreclosing.

BY HIS LORDSHIP: Q-- When was that? A-- It would be in 1935 or - 1935, I guess.

BY MR. GIBSON: Q-- How do you know they were going to foreclose? A-- Well, they sent me a notice.

Q-- They sent you notice? A-- Of foreclosing.

Q-- Had you any conversations prior to that with Albert Glover? A-- No, he had not said one word about it.

20 Q-- Why were they going to foreclose? A-- Because he had not paid the interest or the taxes. I paid the taxes, that is, the sixteen hundred dollars, and the next year -

Q-- What did you do right then and there to keep them happy? A-- I do not quite understand the question.

Q-- You say they were going to foreclose? Did they foreclose? A-- Well, quite probably -

Q-- Well, what did you do? A-- We paid them up to date.

Q-- Who did? A-- I did.

30 Q-- How much? A-- I am not sure of those figures - \$3098, was it?

Q-- Somewhere around that figure, was it? A-- Yes.

BY HIS LORDSHIP: Q-- That was to put the mortgage in good standing? A-- Yes.

Q-- And we are now talking about the mortgage on the Earl Street property? A-- Yes, that is the first mortgage - the London Life.

BY MR. GIBSON: Q-- Now, what did you do after that? Did you pay any sums, or what happened, anyway? A-- He agreed to let me look after the finances.

40 Q-- Well, did you look after the finances? A-- Yes, I did.

Q-- How much - how did you look after the finances?  
A-- He kept what cheques he needed for general expenses.

Q-- What cheques are you referring to? A-- Rent cheques.

Q-- Rent cheques? A-- Yes.

Q-- Rents from what? A-- He agreed to let me -

W. Glover, dir-ex, Defendant

Q-- Just answer the question, Doctor. His Lordship and the Court do not know anything about this, and you have to tell them, and you know all about it. Rents from what? A-- Rents from the apartments.

Q-- What apartments? A-- 174 Earl and 170 and 172.

Q-- And what was done with the rents, then, again? A-- He passed on to me what rents he did not need for his running expenses of the house, and he paid some help, and gave me the rest.

Q-- He gave you the rest? A-- Yes.

Q-- Was there any agreement as to what number - A-- No.

Q-- Did you take what cheques he gave you? A-- Yes, I did.

Q-- What did you do with them? A-- I placed them in an account by itself in the bank.

Q-- What bank? A-- The Bank of Montreal.

Q-- In whose name? A-- In my name.

Q-- In your name. Now, when did you open that account? A-- In 1935.

Q-- In 1935. Now, did you ever issue any cheques - did you continue to deposit any cheques in the account after 1935? A-- I continued.

Q-- What cheques did you deposit in there? A-- The cheques that Albert gave me every month.

Q-- The cheques that he gave you every month. Did you make any other record of what cheques he gave you? A-- I kept a record of every cheque that he gave me.

Q-- Where did you keep this record? A-- In a book.

Q-- In a book. When did you make the entries in this book? A-- As he brought the cheques in.

Q-- And where did you keep this book? A-- At the house, at the office.

Q-- At the office, and for how long a time did you keep that book? A-- Up until the present time.

Q-- Until this law suit commenced? A-- Yes.

BY HIS LORDSHIP: Q-- You mean, you have it now? A-- Yes.

BY MR. GIBSON: Q-- Now, did you ever draw any money out of this account? A-- Not except for -

Q-- Well, you did? A-- Yes.

Q-- What cheques did you draw out; what cheques did you issue on it? A-- For the expenses of the apartments, and the London Life.

Q-- For the expenses of the apartment - A-- And the mortgage with the London Life.

Q-- Now, what do you mean by the expenses of the apartment? A-- Well, the general running expenses of light, coal, any regular expenses -

W. Glover, dir-ex, Defendant

Q-- Can you name some people to whom you issued cheques?

A-- Yes, Anglins (?).

Q-- Anyone else? A-- Well, it was the lumber company -

Q-- Who else? A-- Allan and Peters.

Q-- What is Allan? A-- The lumber company.

Q-- And what is Peters? A-- The lumber company.

Q-- Anyone else? A-- Those are the main ones, anyway.

10 Q-- Did you ever spend any other moneys except what you  
drew out of this account? A-- I spent my own money at times.

Q-- And how did you spend it? A-- On the apartments -  
they were expenses that the rents would not cover.

Q-- Was this account always sufficient to pay the expenses?  
A-- No.

Q-- Did you ever do anything with the account; did you  
ever put any money in it? A-- Oh, yes.

Q-- So that you could issue cheques; is that right?

A-- Yes.

Q-- Whose money? A-- My money.

20 Q-- Your money, and did you continue to do that? A-- I  
continued to do that.

Q-- Now, I show you a book. What is that book? Take a  
look at it? A-- I kept a record there -

Q-- What is that book? A-- That is the book of the rents  
from the apartments on Earl Street.

MR. SMITH: I have the affidavit on production that has  
been filed in this matter by the Defence, and it contains only  
two items - a letter, and a quit claim deed.

30 MR. GIBSON: Read the rest of it, Mr. Smith. I objected  
to producing -

HIS LORDSHIP: You cannot object to the other side producing  
it, and then produce it yourself -

MR. GIBSON: I objected to producing it until at least  
they had made out a prima facie case.

HIS LORDSHIP: In other words, you told them you had it?

MR. GIBSON: Yes.

HIS LORDSHIP: And they did not move for production?

MR. GIBSON: No, they did not.

40 HIS LORDSHIP: You could have applied for an order, if  
you knew it was in existence.

MR. SMITH: I submit, as a matter of law, my Lord, that  
if it is not produced, that it cannot be referred to in evidence.

W. Glover, dir-ex, Defendant

HIS LORDSHIP: But he said it was referred to in the examination for discovery. If you know that a thing is in existence, and admitted to be in existence, even though it may not be contained in the affidavit on production, then the next move is up to you, to either move for a better affidavit on production or to move for production itself. What practice is this?

10 MR. SMITH: It is English practice, but it is the same as ours - I am saying that he did not produce it. He refused to produce it.

HIS LORDSHIP: He could have been compelled to produce it - if you knew of its existence. It is a different position where you are completely taken by surprise, and come into court, and find the existence of a certain document that you never knew of before, but if you knew -- apparently you knew of the existence of the document, of the book. You are not taken by surprise. You would not take that position, would you?

MR. SMITH: No.

20 HIS LORDSHIP: You are just relying on the fact that it was not stated in the affidavit.

MR. SMITH: It was not produced, and I do not know why my friend would not produce it and then try to put it in evidence.

HIS LORDSHIP: I think where we are at odds is on the meaning of the word "produced." What you say is that he did not include it in his affidavit on production, but producing means the actual physical production, which I say you might have secured if you had gone after it.

30 MR. SMITH: On the examination for discovery I asked for the production of things, and Mr. Gibson took the position that he was not prepared to produce those things.

HIS LORDSHIP: Why didn't you then move to ask him to produce them? You cannot wait, and then drop everything on the trial judge's lap.

MR. SMITH: But I am not called upon to meet that evidence, where he has failed to produce it upon being asked to do so.

HIS LORDSHIP: I will take it subject to your objection.

BY MR. GIBSON: Q-- Again, Doctor, what is this book?  
A-- This is the book of the rents that my brother Albert gave me from the apartment.



W. Glover, dir-ex, Defendant

Q-- Now, it seems to start at 1935; is that correct?

A-- That is correct.

Q-- And it continues on - 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, and so on. Now, when were the entries made in this book? A-- When the cheques were brought to me, the rent cheques.

Q-- When they were brought to you. And I notice a number of blanks in this book? A-- Yes.

10 Q-- What does that represent, if anything? A-- Those are the apartments I did not get any rent from.

Q-- You mean, that Albert did not give you the cheques? A-- He did not give me the cheques for those.

Q-- And you did not question that? A-- No, I did not question that. Sometimes he would tell me that he needed a certain cheque for a certain thing.

Q-- I show you another book, Doctor. What is that? A-- That is where I kept -

20 MR. SMITH: Again, I object to this book being produced. I do not know what this book is.

HIS LORDSHIP: What is this, Mr. Gibson?

MR. GIBSON: This is a record of some expenses that were noted down in that book, and which were not included in the bank account.

HIS LORDSHIP: Have you any knowledge about that?

MR. SMITH: No, my Lord.

30 MR. GIBSON: That is in discovery, too. After the close of the examination for discovery, Mr. Smith said then that he may make a motion to the court to compel, and nothing was done, and that was May 26th, 1946.

HIS LORDSHIP: Was the existence of this book disclosed in the examination for discovery?

MR. GIBSON: Yes, Mr. Smith asked him questions about these books.

THE WITNESS: I told him I kept a record.

40 HIS LORDSHIP: Counsel should on his affidavit on production disclose and list those books that he has in his possession, and give a reason as to why he refuses to produce them, and that was not done in this case, but what you say is that on the examination for discovery that information was given?

W. Glover, dir-ex, Defendant

MR. GIBSON: In the affidavit on production, I say, "All books of account I object to produce until the preliminary issues have been decided."

HIS LORDSHIP: Well, that is all you are required to do.

BY MR. GIBSON: Q-- What is this book, Doctor Glover?  
A-- A record of expenses of the apartment.

MR. SMITH: My Lord, what Mr. Gibson said to me was that until the question was decided as to whether or not the quit  
10 claim deed would stand, he would not produce any books.

HIS LORDSHIP: Well, whatever he said - you could have moved -

MR. SMITH: He divided the case into two branches. If the quit claim deed was set aside, then he contended that he might be required to produce the books, but he said, "As far as I am concerned now, this is an action to set aside a quit claim deed, and until that point is decided, I will be producing nothing."

HIS LORDSHIP: Well, in the Statement of Defence it sets  
20 up -

MR. GIBSON: Would you look at page 23 of the examination for discovery, your Lordship?

It states:

"Mr. Smith: Mr. Wood, you will note that Mr. Gibson refuses to produce any record of account or any documents on this examination, except the documents mentioned in the Affidavit on Production to be filed."

HIS LORDSHIP: Surely the Pleadings are clear. Paragraphs  
30 (4), (6), (7), and (8) - surely every document that he thought was pertinent to the issue, on the Pleadings, and you could have made him produce them, I think. However, I am not dealing with what the master or the judge would have done if you had applied. All right, go ahead. I will take the evidence subject to objection.

BY MR. GIBSON: Q-- What is this book, Doctor? First of all, this first book will be exhibit sixteen, - fifteen.  
-----Exhibit Number fifteen (15):- Ledger.

Q-- Now, what do you say this book is? A-- A record of expenses for the apartment on Earl Street.

Q-- A record of expenses of the apartment on Earl Street,  
40 and are those included in the bank account? A-- Included?

W. Glover, dir-ex, Defendant

Q-- Are these a duplication of those expenses which you paid through the bank account? A-- Yes.

Q-- An absolute duplication, or are there others? A-- Well, there were times when there was not enough in the account, and I would put it in -

Q-- What did you record here? A-- The expenses, and sometimes the account - I would have to put money in to keep it balanced.

10 Q-- Aside from that, what does this book represent?

A-- A record of expenses.

Q-- In addition to the ones in the bank? A-- I don't just quite understand the question.

Q-- How did you pay those expenses? A-- Not always by cheque -

Q-- Are there any cash items there? A-- Yes.

Q-- And when you paid them in cash, did you make any record? A-- I made the record here.

20 Q-- You put it down when you paid it? A-- Yes, electric light and water, and so on.

Q-- In addition to this book, there were other expenses paid, is that right? A-- I do not quite understand that.

Q-- In addition to the expenses you have recorded in this book, did you pay any other expenses? A-- Well -

Q-- Are those all of them? A-- Those are all of them, yes.

Q-- There are no other expenses? A-- No.

Q-- You have got a bank account you have been talking about? A-- Yes.

30 Q-- Did you issue cheques? A-- Yes, I issued cheques.

Q-- The cheques are in addition to these, is that right? A-- Yes.

BY HIS LORDSHIP: Q-- And do those represent cash payments? A-- Cash and cheques to keep my own account, and the account I called the trust account - to keep it balanced - I put money in the bank to issue cheques.

BY MR. GIBSON: Q-- Those are separate? A-- Yes.

Q-- There are some cash items here? A-- Yes.

40 Q-- Obviously, you could not put them through the bank account? A-- No, I would put them down here.

Q-- So it has not got anything to do with the bank account? A-- No.

Q-- These represent items in addition to the ones you have checked through by cheques? A-- Yes - I am not so sure that I have not it balanced here -

Q-- There may be some items in here that were put through the bank account - if you do not understand my questions, ask me. A-- Just to keep the accounts balanced -

W. Glover, dir-ex, Defendant

Q-- Were there any other additional expenses paid besides those in that book and those in the bank account? (No answer)

Q-- Can you recollect any other expenses that were paid, Doctor? A-- I do not think they are all here, though -

Q-- That is not my question, Doctor - the expenses you have recorded there, plus what you have in the bank account, are they all the expenses that were paid by you, which you can remember? A-- Yes.

10 Q-- Do you think you kept a complete record of what you spent? A-- I think I kept a complete record, yes.

HIS LORDSHIP: Are you putting that book in?

MR. GIBSON: Yes, your Lordship.

HIS LORDSHIP: Subject to objection, it will be exhibit sixteen.

-----Exhibit Number (16):- Book of account.

BY HIS LORDSHIP: Q-- You spoke about a trust account; what were you talking about when you mentioned trust account?

20 A-- That was to distinguish from my own account. I kept the apartment house rents separate.

BY MR. GIBSON: Q-- Have you got another account for the Robertson house? A-- Yes.

Q-- To distinguish that from your own account, too? A-- Yes.

Q-- Who owns that account? A-- I do.

Q-- And who owned this account?

HIS LORDSHIP: What account are you talking about now?

BY MR. GIBSON: Q-- How many accounts have you got? A-- Three.

30 Q-- Who owns them? A-- I do.

BY HIS LORDSHIP: Q-- There are three accounts, but one of them was called a trust account? A-- Yes.

Q-- And that one had reference to the apartment - to the two apartment houses together? A-- Yes, the two apartment houses together.

BY MR. GIBSON: Q-- Is that the name of the account? A-- We called it a trust account to distinguish them. The bank put that on there, to distinguish it.

40 Q-- What do you call the account for the Robertson house? A-- A special account.

Q-- And then you have a savings account, too; is that correct? A-- Yes.

W. Glover, dir-ex, Defendant

Q-- Are all three bank accounts in the Bank of Montreal?  
A-- Yes.

Q-- Now, along about 1943, did you have any other trans-  
action? A-- Changing the apartment.

Q-- Changing the apartment. What do you mean by that?  
A-- 174 Earl, we divided one apartment into two, and built an  
addition.

10 Q-- Where did you get the money? A-- I supplied it.  
Q-- How much? A-- It cost about twenty-five hundred, I  
think.

Q-- Where did you borrow the money, or did you? A-- Well,  
I got it as best I could - my own account - I had to borrow, when  
I did not have enough.

Q-- Did you pledge any securities? A-- I always gave  
bonds as securities, except with the Mutual Life.

Q-- What did you borrow from the Mutual Life? A-- I  
borrowed sums at different times.

20 Q-- How much? A-- Well, there were different times.  
From memory, I would not -

Q-- Give us an idea. A-- Perhaps thirty-five hundred,  
or something like that. I would not be sure.

Q-- How much? A-- I would not be sure, but there were  
different times I borrowed from them.

Q-- Well, how much do you think the total amount was?  
A-- Well, it may have been thirty-five hundred or forty-five  
hundred, I don't know.

Q-- Thirty-five or forty-five hundred? A-- Yes.

30 BY HIS LORDSHIP: Q-- Was that in addition to the twenty-  
five hundred that you have mentioned? You have just been talk-  
ing about twenty-five hundred? A-- Well, that was spending -  
but I did not borrow all the money from the Mutual Life at that  
time, but when we changed the other apartment -

BY MR. GIBSON: Q-- How much did you borrow in total  
from the Mutual Life? A-- I could not say.

Q-- Well, give us an idea? A-- It might have been forty-  
five hundred.

Q-- What did you do with the money that was borrowed?  
A-- I used it on the apartments.

40 Q-- In doing what? A-- In dividing -

MR. SMITH: So the record will not get confused, couldn't  
we call that Sydenham Street - A-- Well, it is Earl Street -

BY HIS LORDSHIP: Q-- I take it all the way through  
this is the Earl Street property. A-- It is the Earl Street.

W. Glover, dir-ex, Defendant

MR. SMITH: The other building is also on Earl Street, on the corner - A-- That other building has nothing to do with this building.

BY MR. GIBSON: Q-- This forty-five hundred dollars, when was that money used? A-- It was used in changing the apartments at 174 Earl, and then 170 - he built an addition there, and that cost about six thousand dollars. I spent around about ten thousand dollars on the apartments.

10 Q-- And what was this time? A-- That would be around 1942 and 1943.

HIS LORDSHIP: Is it six thousand or ten thousand dollars?

BY MR. GIBSON: Q-- Four at one time, and then six at another time; is that right? A-- Yes.

Q-- You say you borrowed about forty-five hundred dollars? A-- Yes.

Q-- Did you borrow any other sums? A-- I do not know the figures - at different times.

20 Q-- Did you put in any other sum other than the forty-five hundred at that time? A-- I do not think so. I used my own money.

Q-- You say about ten thousand was expended at that point - A-- A new furnace, and everything -

Q-- Where did that money come from? A-- Well, that is what I got from the Mutual Life, and my own money. I used some of my own money.

Q-- How much of your own money did you use? A-- Well, I could not say offhand.

30 Q-- Well, roughly, then. A-- I do not know how much. We used the trust account as far as it would go, and then I borrowed to supplement it.

Q-- You said you borrowed about forty-five hundred from the Mutual Life? A-- Yes.

Q-- Did you use any other sums of your own? A-- Yes.

40 HIS LORDSHIP: If you had prepared a statement beforehand, Mr. Gibson, it would have saved the Court a lot of time. This man now is proceeding to remember things that he should have remembered in your office. The matter of the consideration in cases like this is very important. We may have this position arise when we get to the end of the case, that a great deal may depend on the whole issue, having regard to the consideration, what the deceased was actually indebted to this man, so one can determine if there was any equity at the time of the quit claim deed, or the opposite.

W. Glover, dir-ex, Defendant

MR. GIBSON: I have a statement, your Lordship -

HIS LORDSHIP: Where is the statement?

MR. GIBSON: There is another witness - this is it right here. (producing)

10 HIS LORDSHIP: It is perfectly obvious that this witness is speaking from memory, and so far as he is personally concerned, I think he has a fairly good idea of the standing between himself and his brother, but it is taking a long long time to delve through these advances at this time. Now that I know that is going to be put in later, I do not see much point in going into it in any great detail with this witness.

MR. GIBSON: Thank you, my Lord.

BY MR. GIBSON: Q-- All right, just after that - that is 1943 - in 1944, was there any money put up that you can recall - any large sums? A-- Well, I do not think so. The others were the main ones.

Q-- Now, what happened in 1944? A-- Referring to the quit claim deed?

20 Q-- Yes. A-- Well, my brother and I talked over about getting this business settled up.

Q-- Did you talk on more than one occasion? A-- At different times.

Q-- What did he have to say about it?

MR. SMITH: I object to anything that the brother said.

HIS LORDSHIP: Do you object to a conversation between this man and the late Albert Glover?

MR. SMITH: Yes, my Lord.

HIS LORDSHIP: On what ground?

30 MR. SMITH: Well, on every ground. If that were admitted, a witness could make any statement -

HIS LORDSHIP: No, your only rights depend upon the rights of Albert Glover. In other words, because a man is dead, you cannot say - your only status here is as an heir-at-law of the deceased. It would be a very strange rule that would preclude conversation. Supposing you were claiming under a will - still, you are claiming as heirs-at-law, and your whole title depends - in other words, you have got something or you have not got something, depending upon whether or not  
40 this man had anything to leave.

W. Glover, dir-ex, Defendant

MR. SMITH: Very well, my Lord.

HIS LORDSHIP: That is my ruling. This is not hearsay evidence in view of the status of the plaintiff.

BY MR. GIBSON: Q-- What did Albert Glover have to say to you on any one of these occasions? A-- To get our business settled up.

Q-- What did he say about your business? A-- Well, I told him that he owed me around fifty thousand dollars.

10 Q-- And what did he have to say about it? A-- Well, he said, "It is your property, anyway." At different times he told me that, I said, "We had better get the business straightened up."

BY HIS LORDSHIP: Q-- He said, "It is your property anyway?" A-- Yes.

BY MR. GIBSON: Q-- Did he say this on more than one occasion? A-- Yes.

Q-- Did he say anything else on other occasions? A-- He said that he was thankful to have a home.

20 Q-- Why did he say that? A-- Because he knew that he had lost it - lost all his equity in the property.

Q-- What about 1936 -

BY HIS LORDSHIP: Q-- And that is what you feel that he felt? A-- Yes

Q-- Did he ever say that he realized that his equity was gone? A-- At different times. He did tell me at different times. He said - there were times when the rents - that this property was not paying at all, and that he had my money, and he said, "It is all yours, anyway."

30 Q-- Did he mean it was all yours because he was going to give it to you - A-- No, he had lost it.

Q-- Did he say that? A-- Yes.

Q-- Did he say it on more than one occasion? A-- On more than one occasion. He said that he would not have had a home if it had not been for me. He said that he ought to be grateful for it.

BY MR. GIBSON: Q-- What about 1936, when he was foreclosed? What do you know about that? A-- Well, that is the time that he turned part of the rents over to me.

40 Q-- No, the grocery store, what about it? A-- Well, I do not know much about that.

Q-- Well, what do you know - did you know about it at the time? A-- Well, no, I did not know that he was foreclosed until he had told me.



W. Glover, dir-ex, Defendant

Q-- When did he tell you - after it was done? A-- After it was done.

Q-- And did you say anything about it? A-- I asked him who foreclosed, and he told me it was the Brockville Loan Company, and it was Mr. Thompson who put it through, and I went down to find out who got it, and he said it was Doctor Jones, and I said, " I know Doctor Jones, and I will see if I can buy it back for you."

10 Q-- And did you go to Doctor Jones? A-- I went to Doctor Jones.

Q-- And did you buy it back, or would he sell it to you? A-- He would not sell it.

Q-- Anyway, you did not get it back? A-- I did not get it back; I could not do anything.

Q-- And did somebody else buy it, do you know, from Doctor Jones? A-- Doctor Jones bought it.

Q-- Does Doctor Jones own it now? A-- Doctor Jones owns it now.

20 Q-- He does? A-- Yes, he rents it to Mr. Cook.

Q-- Now, were there any other conversations after that - that was 1936 -

HIS LORDSHIP: You call that the Robertson building?

MR. GIBSON: No, that is the grocery store. That was foreclosed. Now, -

HIS LORDSHIP: That is when the grocery business came to an end so far as your brother was concerned? A-- Yes.

30 BY MR. GIBSON: Q-- And do you know - that was just a year after the London Life were going to foreclose on the apartment? A-- Yes.

Q-- Do you know if your brother had any money then?

A-- He had not any, no.

Q-- He had not any. Do you know the amount of this foreclosure? A-- I did not know anything about it until he told me about it.

Q-- You never saw any of those papers? A-- I never saw them. He did not tell me anything about it, because he came to me so often that he had not the heart to -

40 BY HIS LORDSHIP: Q-- At any rate, did he - he did not show you the writ in the foreclosure action? A-- No.

BY MR. GIBSON: Q-- It was all done before you knew about it? A-- It was all done before I knew about it.

Q-- Now, about the London Life, did he tell you about that? A-- No.

W. Glover, dir-ex, Defendant

Q-- How did you find out? A-- From the London Life.

Q-- And what did they say to you? A-- They went to foreclose if we did not pay up -

Q-- How did you find out from them? A-- They sent me a notice.

Q-- And you were a second mortgagee? A-- I was a second mortgagee.

10 Q-- And did you speak with Albert after you got that notice? A-- Well, not particularly. He did not say anything about it.

Q-- Did you have any conversation after that - what did he have to say about it? A-- Well, he was glad that I came to his rescue.

BY HIS LORDSHIP: Q-- That was in 1935? A-- 1935.

BY MR. GIBSON: Q-- So you paid a lot of money in 1935? A-- Yes.

Q-- And in 1936, they foreclosed the grocery store?

A-- Well, that was separate.

20 Q-- But he did not have any money then? A-- No, he did not have any money.

BY HIS LORDSHIP: Q-- Were you advancing that money to your brother and charging him interest; did you ever ask him for any interest? A-- No, I did not ask him. I knew that he did not have that money.

Q-- But, I mean, your mortgage- A-- The mortgage carried the interest.

Q-- But I mean these other moneys? A-- No.

30 Q-- You never mentioned interest to him at the time you advanced the money? A-- No.

BY MR. GIBSON: Q-- When you incorporated the first amount - the amount of \$34,500 in that 1931 mortgage, was there any interest included in that mortgage? A-- Well, there was always interest when a new mortgage was drawn.

Q-- You put the interest in it? A-- Yes.

Q-- And he signed the mortgage? A-- Yes.

Q-- And did he know that there was interest in it? A-- Yes, certainly.

40 Q-- Now, that \$34,500 mortgage included items from 1920? A-- Yes.

Q-- Was there any interest on those items - on the 1920 items? A-- Well, those were always made up - they were added into the mortgage when the new mortgage was made.

Q-- Coming back to 1944, you say that he had said, "It is all yours anyway?" A-- Yes.

Q-- Now, did you have some conversation with him in 1944? A-- I said, "We should get our business straightened up."

W. Glover, dir-ex, Defendant

Q-- And what did he have to say to you? A-- All right - he said that he was ready any time, he said.

Q-- Did you suggest how he was going to get it straightened up? A-- Well, I was not particular how it should be done, but I thought we should get our business straight in case of anything happening.

Q-- And did he agree to that? A-- Yes.

10 Q-- And did you speak on more than one occasion? A--  
On different occasions.

Q-- And what did he have to say? A-- He was always satisfied.

BY HIS LORDSHIP: Q-- He was always satisfied to straighten up? A-- To straighten it up, yes.

BY MR. GIBSON: Q-- How was it straightened up then? A-- By a quit claim deed.

Q-- By a quit claim deed, and who drew this quit claim deed? A-- Well, W.O. Dwyer.

20 Q-- And how long had you known Mr. W.O. Dwyer; how long had you known him? A-- Ever since he has been down on the corner there - since '39.

Q-- Since '39? A-- Yes.

Q-- And how long had Albert Glover known Mr. Dwyer? A-- He had known Dwyer all his life.

Q-- And do you know whether he used to see him the odd time, just as a friend? A-- He did.

Q-- And did you use to speak to Mr. Dwyer as a friend? A-- I used to do his dental work.

30 Q-- You used to do his dental work, and did you know him for quite a long time before you went to him as a client? A-- I did.

Q-- When did you first go to him as a client? A-- Oh, I would not be sure about that. - I heard my brother talking about Mr. Dwyer. He was always praising him.

Q-- What did he say about him? A-- He said that he had a good lawyer, and was getting a big practice, and he said, "any business you want, you go down there."

Q-- And do you know if he went down there? A-- Yes, he did.

40 Q-- About what? Do you know of any instance? A-- Well, there were occasions when he had a lease to draw, I suppose - if he had any papers to witness, he took them there.

BY HIS LORDSHIP: Q-- You say that he used to go and see Mr. Dwyer? A-- Yes.

Q-- And consult him professionally? A-- Yes, to consult him professionally.

Q-- How do you know that? A-- He said so.

W. Glover, dir-ex, Defendant

BY MR. GIBSON: Q-- Who said so? A-- My brother, and I was down with him more than once.

BY HIS LORDSHIP: Q-- You were down with him more than once? A-- Yes.

BY MR. GIBSON: Q-- How was the quit claim deed prepared? You said Mr. Dwyer prepared it.

Q-- Whose idea was the quit claim deed? A-- I asked Mr. Dwyer - I told him that my equity was more than the mortgages, and I asked him how we should fix it up, and he said, "You take a quit claim deed," and I said, "Well, you explain it to him."

Q-- To explain it to him? A-- "It is better for you to do it than for me to do it."

Q-- Would you know how to explain a quit claim deed? A-- I would not know how to explain it.

MR. SMITH: I do not want to repeat my objection, but I do object to all those conversations.

HIS LORDSHIP: I am sure you wish that were the rule, that you are not bound by the actions of your testator. Of course, the witness now goes a step further, and he said that Dwyer was the solicitor of your client.

MR. SMITH: Yes, but if you will notice in my evidence, in the examination for discovery, when I asked him the question -

HIS LORDSHIP: But that is cross-examination. You can bring out that point, but he is going pretty far afield here. He said, "I know that Mr. Dwyer was my brother's solicitor, and then he gives the conversation between himself and Dwyer. In other words, he sets Dwyer up first as his brother's solicitor, and then he gives evidence of a conversation.

MR. SMITH: He has already said that Dwyer was not his brother's solicitor. I put that in as part of my case.

HIS LORDSHIP: Well, I will take it subject to your objection. He said that he consulted him professionally, and that he was told by the deceased that he had - there is no jury here - if I am satisfied after your cross-examination that he was never his solicitor, I think I can take that into consideration. I am taking it subject to your objection.

MR. SMITH: All right.

BY HIS LORDSHIP: Q-- In any event, what you did say to Mr. Dwyer was, "My brother has no longer any equity in his property; he owes me more than the property is worth?" A-- That is right.

W. Glover, dir-ex, Defendant

Q-- You told Mr. Dwyer that, so whatever Mr. Dwyer told your brother was predicated on that information that he secured from you. A-- Well, Mr. Dwyer knew it himself.

Q-- You said that you told Mr. Dwyer that your brother had no longer any equity in it. If Mr. Dwyer knew it, why did you tell him? A-- Well, this last mortgage - when the mortgage was cut down, then I had not enough security.

10 Q-- When what mortgage was cut down? A-- When the \$34,500 was cut down to fifteen thousand, by my brother on account of succession duties, because the property at that time was so low.

BY MR. GIBSON: Q-- What happened in 1928 -

HIS LORDSHIP: I think it is now a good time to recess.

----- (Whereupon a short recess was had ) -----

BY MR. GIBSON: Q-- Now, Doctor Glover, you were telling the Court about this quit claim deed in 1944. Have you anything else to say about that quit claim deed, Doctor? A-- I don't know as I have -

20 Q-- Where was it signed? A-- It was signed at Mr. Dwyer's office.

Q-- Signed at Mr. Dwyer's office, and who was present? A-- My brother, Albert, and his wife, and Mr. Dwyer.

Q-- And anyone else? A-- The stenographer. She was in and out.

Q-- Anyone else? A-- Myself.

Q-- And how long were you in before it was signed?

A-- Oh, I imagine about half an hour or so, - I don't know just how long.

30 Q-- What was going on during that time? A-- Mr. Dwyer was explaining to my brother and his wife.

Q-- Do you recall what was said? A-- I was a disinterested party - I was in the room, but I was not listening to what they were talking about.

Q-- Could you tell everything that was said? A-- Well, they were talking.

Q-- Were they discussing the quit claim deed? A-- Yes, they were discussing the quit claim deed. Mr. Dwyer explained it to them, that is all I know.

40 Q-- What did he say? A-- Well, that I cannot say, because -

MR. SMITH: My Lord, I object to that.

HIS LORDSHIP: It will be taken subject to your objection.

W. Glover, dir-ex, Defendant

BY MR. GIBSON: Q-- What did he say?

HIS LORDSHIP: He said that he did not remember.

BY MR. GIBSON: Q-- There was considerable talking about it, anyway? A-- Yes.

Q-- Then what happened after that? A-- Well, after they signed the deed, why, we went home.

Q-- You went home. Did you drive him home? A-- I did.

10 Q-- And when did you next see this deed? A-- Oh, I did not see the deed until some days after. Mr. Dwyer sent it down to me.

Q-- How? A-- By, I think it was registered mail. It was by mail, anyway.

Q-- Is that it? (producing) A-- That is it.

Q-- Exhibit eleven, and who put it in the Registry Office for registration? A-- Mr. Dwyer.

Q-- Did you give it back to him? A-- Yes, I gave it back to him.

20 Q-- When? A-- I would not be certain of the date. He asked me for it.

Q-- When? A-- It would be sometime after, perhaps - it was sometime after my brother's death, anyway.

Q-- And it was registered, was it? A-- It was registered.

BY HIS LORDSHIP: Q-- Have you any idea why Mr. Dwyer had not caused the quit claim deed to be registered before he sent it to you? A-- He did not want to humiliate my brother. He did not want it registered, so the public would not know about it. Sometimes the mortgages were not registered for that  
30 reason.

BY MR. GIBSON: Q-- Who said not to register it? A-- Well, Mr. Dwyer said it was not necessary to register it right away.

MR. SMITH: I object to that.

BY HIS LORDSHIP: Q-- You said you did not want it registered because - A-- That was the reason I did not want it registered -

Q-- And Mr. Dwyer said you did not want to have it registered right away? A-- Yes, he did not want to humiliate him.

40 Q-- Who did not want to humiliate him - you or Mr. Dwyer? A-- I did not.

BY MR. GIBSON: Q-- You say you had done this with other mortgages before? A-- Sometimes they were not registered for a time, just for that same reason.

W. Glover, dir-ex, Defendant

Q-- And why was that? A-- For that same reason.

Q-- Would you just go back to 1938. There was a mortgage for fifteen thousand put on? A-- Yes.

Q-- Could you tell His Lordship about that? A-- The fifteen thousand mortgage?

Q-- Yes, how did that come about? A-- Well, I will have to go back to the \$34,500.

10 Q-- Yes, all right. A-- At that date there was quite a large London Life mortgage, and my mortgage was so large, and my brother said that the equity was not there, and he said, "If anything happens to you, the succession duties - they will put that in at its face value, and your estate will be heavily taxed," and so he cut it down, but there was nothing paid or anything like that. He cut it down, just to save in case of death.

Q-- Whose death? A-- In case anything happened to me, so my estate would not be stuck for the larger amount than the equity was.

20 Q-- Did Albert Glover have any money that he could satisfy the mortgage out of at that time? A-- No.

Q-- So you had to rely on the property? A-- Yes.

Q-- And on whose advice was this done? A-- On my brother, T.J.

Q-- What is his occupation? A-- He is a barrister.

Q-- Did he know anything about your dealings with your brother? A-- He knew them all.

BY HIS LORDSHIP: Q-- You say he is too ill to come to court to testify? A-- Yes, he has been in bed most of the time.

30 Q-- What have you heard is wrong with him? A-- Well, he had phlebitis, and he has been having sweats from having too many sulphur drugs.

Q-- Has he discontinued his practice in Toronto? A-- Yes.

Q-- How long ago? A-- He came down a year ago last October.

Q-- How old is he? A-- Eighty-three.

40 Q-- All right, thank you. Just one more question. You know Albert Glover and you have been associating with him all your life? A-- Yes.

Q-- And you were good friends? A-- The very best.

Q-- The very best? A-- You mean, Mr. Albert?

Q-- Yes, your brother? A-- Yes.

Q-- What do you say about his mental capacity? A-- His mental capacity was as good as my own.

BY HIS LORDSHIP: Q-- His mental capacity was as good as your own? A-- Yes.

W. Glover, dir-ex, Defendant

Q-- You say that was true up until the time that he executed the quit claim deed? A-- Yes, and after that.

BY MR. GIBSON: Q-- And after that? A-- Yes, pretty nearly up to the time of his death.

Q-- How long was his last illness? A-- Well, he was ill two or three weeks before Christmas for a few days, and then got better.

Q-- Did anybody see him? A-- Doctor Mylks saw him.

10 Q-- How did he come to see him? A-- My brother's wife called him, I think.

BY HIS LORDSHIP: Q-- Doctor who? A-- Doctor Gordon Mylks, senior.

BY MR. GIBSON: Q-- And then in his last illness - A-- He had Doctor Robinson.

Q-- And that was only for a few days? A-- Yes.

Q-- And what did he die of, to your knowledge? A-- I never was very sure.

Q-- He died suddenly? A-- Yes, he died suddenly.

20 Q-- Prior to three weeks before his death, he had been in reasonably good health? A-- Mentally.

Q-- But what about physical? Was he around? A-- Yes, he was around all the time.

BY HIS LORDSHIP: Q-- When did Doctor Mylks, senior, see him, do you know? A-- I think about three weeks before his death. I saw Doctor Mylks, and Doctor Mylks said there was nothing particularly wrong with him.

30 Q-- You cannot tell us that. You say you think Doctor Mylks saw him about three weeks before his death? A-- About three weeks.

BY MR. GIBSON: Q-- Now, Doctor Glover, this Robertson house which has been mentioned, who owns that? A-- I do.

Q-- When was it renovated? A-- In about 1942 or 1943.

Q-- Somewhere around there? A-- Yes.

Q-- How much money did you spend on the renovations? A-- Oh, somewhere about twenty thousand dollars or twenty-three thousand dollars.

Q-- Whose money? A-- My money.

Q-- Did you have an architect? A-- No.

40 Q-- Who planned it? A-- My brother.

Q-- And when did you finish the job? A-- That would be about 1943, I think, the spring of 1943.

Q-- What about the Wilder house? A-- I think that was finished in the spring of 1943.

Q-- How much money did you spend on this Wilder house? A-- Oh, about seven thousand dollars.



W. Glover, dir-ex, Defendant

Q-- Seven thousand dollars? A-- Somewhere about that.

Q-- What did you sell it for? A-- Eighty-five hundred dollars.

Q-- \$8500. Who superintended the construction of this building? A-- My brother.

Q-- Who did he give instructions to? A-- Well, the workmen, the contractors.

Q-- Who were the contractors? A-- Mr. Edwards looked after the carpentry work, and Hart did the electrical work.

Q-- Who negotiated the sale; did you negotiate the sale? A-- Yes.

Q-- You did. What did your brother do - anything? A-- He did not do anything about the sale.

Q-- Did he see any of the prospective buyers? A-- Yes.

Q-- Who put the price on it? A-- We were both concerned in it.

Q-- You were both concerned in it? A-- Yes, we both talked it over.

Q-- You talked it over. Did you pay him anything for his work? A-- Yes.

Q-- How much? A-- Five hundred dollars.

Q-- Five hundred dollars.

BY HIS LORDSHIP: Q-- Did you pay it to him in cash, or to wipe off the indebtedness? A-- By cheque.

BY MR. GIBSON: Q-- Have you got the cheque? A-- (produces cheque).

Q-- What are you showing here - a cheque in the amount of what? A-- Five hundred dollars.

Q-- Payable to? A-- Albert Glover.

Q-- Signed by? A-- Signed by me.

Q-- And the date? A-- September 24, 1945.

Q-- What account? A-- A special account.

Q-- What account is that? A-- That is the Robertson house account.

Q-- Who owns that account? A-- I do.

Q-- And what is the signature on the back? A-- A. Glover.

Q-- Is that your brother? A-- Yes.

Q-- That will be exhibit seventeen.

----- Exhibit number (17):- Cheque dated September 24, 1945,  
payable to A. Glover, in the sum  
of \$500.

Q-- Who made the leases of the apartments in the Robertson house? A-- Mr. Rigney made one.

Q-- Who negotiated them? A-- My brother.

W. Glover, dir-ex, Defendant

Q-- Albert? A-- Yes.

Q-- And when were they negotiated, what year? A-- I think that would be 1943 -

Q-- What rent did you get? A-- The lower one is \$120, and the one above is \$105, and the other one is \$65.

Q-- Did your brother Albert negotiate all these leases? A-- Yes.

Q-- He did the bargaining? A-- He did the bargaining.

10 BY HIS LORDSHIP: Q-- That property was registered in his name, was it? A-- No.

MR. GIBSON: No.

THE WITNESS: That was entirely separate.

BY MR. GIBSON: Q-- And it is not very long ago that you bought that property? A-- No.

Q-- Has there ever been any price offered for that property - 174 Earl Street? A-- No.

BY HIS LORDSHIP: Q-- You mean, the property was never put up for sale, as far as you know, to anybody else? A-- No.

20 BY MR. GIBSON: Q-- Or to any private person? A-- No.

BY HIS LORDSHIP: Q-- Were any bids ever received for it? A-- No.

CROSS EXAMINATION BY MR. SMITH:

Q-- Doctor Glover, how long have you and Albert been engaged in business together? A-- That would be since 1920, when I bought the store.

Q-- Since 1920. Now, when did you take the first mortgage that you ever took from Albert? A-- The date? - I would not be sure of the date of that.

30 Q-- Do you know how much it was for? A-- Twenty-five thousand dollars.

Q-- Twenty-five thousand dollars. Can you tell us how you happened to take it? A-- Yes.

Q-- How did you happen to take it? A-- The thirteen thousand for the store, the eight thousand for 174 Earl, and there was the interest on the mortgage.

BY HIS LORDSHIP: Q-- The interest on what mortgage? A-- The mortgage on the store.

40 Q-- I understand Mr. Smith to be asking about the first mortgage.

W. Glover, cross-ex, Defendant

BY MR. SMITH: Q-- The first mortgage that he ever took, he said was for twenty-five thousand dollars. That was a mortgage on the apartments, is that right? A-- Yes.

Q-- On Albert's apartments? A-- Yes.

Q-- And that included the eight thousand dollars for the store, and all those items you told Mr. Gibson about - A-- Thirteen thousand on the store - over thirteen thousand dollars - and there was eight hundred and some dollars interest on the mortgage that was on the store. That was not due until 1924, and that was  
10 paid off, and there was the interest on the mortgage, and then there was the eight thousand, and there was the interest on that until the date of that mortgage, and they went up to twenty-five thousand or more -

Q-- In other words, it was a consolidation of all those small items you told us about? A-- Yes.

Q-- And of the interest on them up to that date? A-- Yes.

Q-- It cleaned everything up to that date? A-- Yes.

Q-- What was the date of that twenty-five thousand dollar mortgage? Was it 1931? A-- It would be before that.

20 BY MR. SMITH: Q-- The 1st of January 1927, and at that time it was subject to a mortgage to the London Life? A-- Yes.

Q-- That mortgage to the London Life was twenty-five thousand dollars? A-- Yes.

Q-- And that mortgage to the London Life today is twelve thousand dollars; is that right? A-- Yes.

Q-- Now, the twenty-five thousand dollar mortgage then was in January 1st, 1927, and that was paid off in 1931; is that right? A-- It was not paid off.

Q-- It was discharged? A-- Well, a new mortgage was drawn.

30 Q-- Well, this mortgage was discharged? A-- Yes.

Q-- And it was paid by a new mortgage? A-- Yes, paid by a new mortgage.

Q-- The new mortgage which paid that was a mortgage dated July 1st, 1931? A-- Yes.

Q-- And that mortgage was then this \$34,500 mortgage? A-- Yes.

Q-- What was the \$9,500 made up to? A-- Three thousand on 170 Earl, and the interest.

40 Q-- That is what made it up to 34 - A-- Well, anyway, there was enough to make it up to that.

Q-- That cleaned everything up to July 1st, 1931? A-- Yes.

BY HIS LORDSHIP: Q-- You said something about taxes. Is that included in the amount of that mortgage? A-- Well, this mortgage was before those taxes. The taxes were later than that. It would be 1933 or 1934.

W. Glover, cross-ex, Defendant

BY MR. SMITH: Q-- That \$34,500 mortgage was released by another mortgage on the 11th of July, 1938; is that right? A-- Yes.

Q-- Now, when you got the \$34,500 mortgage, Doctor, Albert started paying you the rents, and you started getting the rents? A-- No, not at that time - 1935 he started paying the rents - that is the date of the mortgage.

10 Q-- 1931? A-- He did not start paying the rents then - not until the London Life foreclosed. I did not get any rents until the London Life foreclosed.

BY HIS LORDSHIP: Q-- It was not until the London Life were threatening to foreclose that you started to get the rents? A-- Yes, in 1935. I did not get anything until 1935.

BY MR. SMITH: Q-- On your examination for discovery, I asked you about the \$34,500 mortgage, on page thirteen, starting at question 126:

"Q--126- Was it registered? A-- I judge it was.

20 Q--127- Do you know the date of that \$34,500 mortgage? A-- No, I couldn't tell you now. We didn't register it for awhile, because we didn't want to humiliate him.

Q--128- When was it registered? A-- It was registered afterwards. Whenever he was in trouble I came to his rescue, and when he lost the store I was sorry, and I tried to get it back, but they wouldn't sell it.

MR. GIBSON: It was registered in 1931.

Q--129- Then Albert started paying you back. Is that right? A-- If you call the rents paying back.

30 Q--130- Started giving you the rents? A-- Yes, and I kept all the expenses paid."

Q--Now, you want to change that to 1935? A-- I did not get anything until 1935. I didn't get the rents until the London Life threatened a foreclosure, and that is 1935.

Q-- You were under oath then, weren't you? A-- I misunderstood your question, if that is right.

BY HIS LORDSHIP: Q-- Do you remember at all making the answer that has just been referred to?

BY MR. SMITH: Q-- Do you remember telling me that?

40 A-- No, I do not, but I know that - I do not know why it would be that, because that mortgage was running then.

BY HIS LORDSHIP: Q-- Does the book you have put in help you at all, exhibit number fifteen? A-- The book starts in 1935.

W. Glover, cross-ex, Defendant

BY MR. SMITH: Q-- You said, "He paid the janitor, and he just brought me any rents he didn't need for running expenses. Sometimes he used the rents from the apartments over the store, which should have been separate." He was not operating the store in 1935? A-- Well, he was operating the store - I think he closed out in 1936.

HIS LORDSHIP: It was 1936 he said the foreclosure was.

10 BY MR. SMITH: Q-- Was he running it right up until the foreclosure? A-- He was.

BY HIS LORDSHIP: Q-- He had some apartments over the store, had he? A-- Yes.

BY MR. SMITH: Q-- When do you say that you first started getting the rents? A-- In 1935 - that is when the London Life foreclosed.

Q-- Were you issued with a writ? A-- Yes.

Q-- Did you get a writ of summons? A-- Yes, well - anyway, they wrote me that they were going to foreclose unless this was paid up.

20 Q-- That is quite a different thing from what you have sworn to. Is that what they did - wrote you a letter? A-- Well, I do not know what form it was, but I know -

Q-- Remember, you are on oath here. A-- Yes, I know.

Q-- You have - you cannot say Yes one minute and No the next. What did you do with the London Life? A-- I paid them off - I restored the mortgage -

Q-- Were you ever served with any writ of summons by the London Life, and be careful with your answer? A-- Well, I know that they threatened foreclosure.

30 Q-- Did you ever get anything but a letter from the London Life asking for payment? A-- I could not say what form it was in, but anyway, it was from the London Life, that they were going to foreclose.

Q-- And you have not got the letter to show us? A-- No, I have not got the letter.

Q-- So there was not any foreclosure at all as far as the London Life were concerned? A-- They would if I had not paid the \$3,098.

40 Q-- Did you just get one letter from them? A-- Yes, because I took it up with my brother immediately. He went up to the head office.

Q-- Had he heard from them? A-- I think perhaps he had.

Q-- You told Mr. Gibson you did not think that he had?

A-- Well, I do not know whether he did or not, but I know I did.

Q-- Did he know anything about it? A-- Well, I told him, anyway.

Q-- Did he know anything at the time you told him? Was it a surprise to him?

W. Glover, cross-ex, Defendant

MR. GIBSON: Which brother are you talking about?

MR. SMITH: Albert.

THE WITNESS: I thought you meant T.J. - my brother Albert never said a word to me. I thought you were talking about the lawyer.

BY MR. SMITH: Q-- You can take it for granted when I am talking about those notes, I am talking about Albert Glover.

A-- Well, Albert Glover never mentioned it to me at all.

10 Q-- Albert never mentioned it to you at all? A-- No.

Q-- And the next transaction you had with Albert was, or that concerned Albert, was when you got your brother, R.J., to assign to you for nothing a mortgage which he held against Albert?

A-- That was a small mortgage, yes.

Q-- How much? A-- I do not just remember whether it was thirty-five hundred, or what it was.

Q-- I am suggesting to you it was \$11,500? A-- Well, I know it was not.

Q-- Did you pay anything for it? A-- Well, the \$11,500 -

20 Q-- Did you pay anything for it? A-- I don't understand the question.

HIS LORDSHIP: What mortgage have you reference to?

BY MR. SMITH: Q-- It was the mortgage which was assigned by one, R.J. Glover, to W.R. Glover. It is a mortgage that was given by Albert Glover to R.J. Glover? A-- I don't think that he ever had a mortgage.

Q-- Did he assign one to you? A-- There was a small amount owing - I do not know just what it was - and he said we would include it all in the one mortgage -

30 Q-- Did you pay him anything for that assignment? A-- No, I did not pay him anything. It was not so much --

Q-- It was money that your brother Albert owed to your brother, R.J. Glover; is that right? A-- He owed him some money, yes.

Q-- And it was that money you got through that assignment of the mortgage for nothing? A-- My brother Robert never had a mortgage -

Q-- Are you swearing to that? A-- As far as I know, he never had. He had notes.

40 Q-- I am talking about Robert John Glover. Did you ever take over a mortgage from Robert John Glover? A-- For how much?

Q-- Owing by Albert Glover? A-- As far as I know, my brother Robert never had a mortgage.

Q-- As far as you know, your brother Robert never had a mortgage? A-- As far as I know.

W. Glover, cross-ex, Defendant

BY HIS LORDSHIP: Q-- Did you ever get any assignment of any mortgage? Did you ever actually come into possession of an assignment of any mortgage? A-- Not that I know of.

BY MR. SMITH: Q-- Do you remember me asking you a question in the examination for discovery, page twelve, question 116?

Q--116- You got that mortgage from Robert for nothing?"

A-- It was not a mortgage.

10 Q-- Do you remember me asking you that question, and you answered, "Yes,"

Q--117- He simply gave it to you? A-- He said he would forget his part of it." Do you mean to say you never got a mortgage from Robert? A-- I never had a mortgage.

Q-- So your answers you gave me on that date were not true? A-- I took it you meant there was a certain amount that my brother Albert owed Robert, and that was included in this mortgage. He never had a mortgage himself.

20 Q-- I will let the record speak about that, but you are denying today under oath that you ever got a mortgage from Robert John Glover by assignment? A-- No.

Q-- You are denying that today; is that right? A-- His business was done in notes.

Q-- I say, you are denying that; is that right, Doctor Glover? A-- As far as I know, he never had a mortgage. That is, to the best of my knowledge. Any transaction that he had with Albert was done through me.

Q-- So your answers to me on the examination for discovery were not true, is that right? A-- I do not understand what you are coming at at all.

30 HIS LORDSHIP: To be quite frank with you - there is a registered mortgage appearing on the Abstract of Title which Mr. Smith has been calling your attention to. It is a mortgage apparently from your brother Albert to your brother Robert, and I think I understood him to say it was for \$11,500 -

MR. GIBSON: No, it is the thirty-four thousand dollar mortgage, my Lord.

MR. SMITH: There are some things not shown -

MR. GIBSON: There was no separate mortgage.

40 HIS LORDSHIP: "Part of farm lot thirty-five, between Clergy, Earl and West Streets." Well, that is the same property we have been talking about, isn't it?

BY MR. SMITH: Q-- Did you get the debt of Robert - that was due from Albert to Robert? A-- There was not very much debt--

Q-- No - did you get it? A-- I believe there was. There was never another mortgage.

W. Glover, cross-ex, Defendant

Q-- Then you got Robert's interest in the mortgage?

A-- Yes - it would be something like that.

Q-- You say there was only twenty-five hundred dollars?

A-- It was not any more - if it was that much.

BY HIS LORDSHIP: Q-- Did you pay the twenty-five hundred dollars, or whatever it was? A-- No, I did not pay. He said we had lost so much that he would just forget his.

BY MR. SMITH: Q-- That was your brother Robert? A-- Yes.  
10 He is dead now. He was a farmer.

Q-- Anyway, you did collect that from Albert? A-- I did not collect it.

Q-- Well, you got the \$34,500 mortgage in which it was incorporated, apparently? You got that? A-- We did not expect to ever get it.

BY HIS LORDSHIP: Isn't this the situation - Robert and this man took a mortgage from Albert Glover, and later on Robert assigned whatever interest he had in the mortgage to this witness. Isn't that the situation?

20 MR. SMITH: That is correct.

HIS LORDSHIP: Then he said his brother Robert said, "You can have it. There was so much loss already, I am going to forget any interest I might have in the property."

MR. SMITH: Yes.

BY MR. SMITH: Q-- What you did then was to discharge that \$34,500 mortgage? You discharged that on July 11th, 1938. Is that right - you released it? A-- Yes, made a new one.

Q-- And made a new one. Where is the new one you made in July, 1938 - that is exhibit ten - who drew that mortgage?

30 A-- My brother, T.J.

Q-- Who? A-- My brother, T.J.

Q-- That was done by T.J. Glover, is that right? A-- Yes.

Q-- That is your brother, the lawyer? A-- Yes.

BY HIS LORDSHIP: Q-- What was his name - Tom? A-- Yes.

BY MR. SMITH: Q-- He used to live in Toronto? A-- Yes - at Forest Hill Village.

Q-- That was a mortgage for fifteen thousand dollars; is that right? A-- That is right.

40 Q-- And that was given in 1938, on the 11th of July. That is the only registered mortgage against the property now, is it? A-- Well, there was a new one drawn.



W. Glover, cross-ex, Defendant

Q-- Is there anything else registered? A-- There was a new one drawn by Mr. Dwyer.

Q-- Now, Doctor, I suggest to you that that is what Albert owed you on the 1st of July, 1938 - that you made it up, and that is what he owed you, including any interest after that date? A-- My brother suggested -

BY HIS LORDSHIP: Q-- Answer Yes or No, first of all?

A-- No.

10 BY MR. SMITH: Q-- Why not? - that is what the record shows - your brother, a lawyer, drew it, and the other mortgage, for \$34,500 was released, and this was put on in its place, and your custom had been to release a mortgage and then put a new one on for the amount owing? A-- There was never a dollar paid.

Q-- Hadn't that been your custom? A-- Yes, but the succession duty was the reason that he did that, because the property was not worth it.

20 Q-- You said then you released the \$34,500 dollar mortgage? A-- Yes, I told him it was a mistake to do that, but he said the property was not worth that.

Q-- And you say this fifteen thousand dollar mortgage did not mean a thing? A-- I knew we would never get our money anyway.

Q-- And you lent yourself to that deception?

BY HIS LORDSHIP: Q-- What did you mean when you said, you knew you would never get your money anyway? A-- The property was not worth the two mortgages.

BY MR. SMITH: Q-- How much was owing to the London Life in 1938?

30 HIS LORDSHIP: You cancelled the debt for fifteen thousand dollars on that date - is that right?

BY MR. SMITH: Q-- You knew you would not get your money anyway? A-- Well, it was just on account of the succession duties that he did it.

Q-- You decided to call it fifteen thousand, didn't you; is that right? A-- Well, I did not decide to it, I let him do it.

40 Q-- The other one was released. You must have decided to call the debt fifteen thousand dollars. You did not think you would ever get your money, and that was the value you put on what you held at that time, with the advice and assistance of your brother, T.J.? A-- Yes, but we never got a dollar.

BY HIS LORDSHIP: Q-- But you say you never cancelled the difference between fifteen and the other amount? A-- No.

W. Glover, cross-ex, Defendant

BY MR. SMITH: Q-- Well, the mortgage was discharged?

A-- I know.

Q-- And what you say when you discharged the mortgage - "do certify that I have this day received from the mortgagor" - you signed that you had received your money for the \$34,500 mortgage. How can you be heard to say now that you did not?

A-- I did not discharge it myself.

10 Q-- Are you swearing you did not discharge it? A-- Well, I did not discharge it.

Q-- I am going to ask the Registrar to produce the discharge. A-- Well, it was discharged, but I did not take it over to do it.

Q-- Did you sign the discharge? A-- I don't remember signing the discharge.

20 Q-- But at that time you never expected to get your money from Albert, and you figured that all there was to it was worth fifteen thousand dollars at that time? A-- No, I did not figure it at all. I told him it was a mistake to cut it down like that.

Q-- You voluntarily put your signature to a certificate that you had received your \$34,500, didn't you? A-- Well, it was cut down -

Q-- And you took this new mortgage for fifteen thousand dollars, is that right? A-- We had a new mortgage.

Q-- And you discharged the old mortgage of \$34,500? (No answer)

30 Q-- All right. The discharge shows on the abstract. The date of the discharge is the 11th of July, 1938, and that very same day the new mortgage for Fifteen thousand dollars was taken, and they were both recorded the same day. They were both recorded and both signed the same day, and at that time you had been getting the rents for three years, hadn't you? A-- The rents did not amount to much - part of the rents.

Q-- There is no other mortgage on this abstract, and Mrs. Glover never signed any other mortgage, did she? A-- She signed all the mortgages we had.

Q-- Did she sign any other mortgage after 1938?

40 A-- This last one - there is one after that for '20, isn't there?

Q-- There is one in June, 1944 sometime - just a short time before the quit claim deed? A-- Yes.

BY HIS LORDSHIP: Q-- You say there was another mortgage after that - was there another mortgage after the fifteen thousand dollar mortgage? A-- Yes, there was another mortgage. It would be 1944.

Q-- For how much was it, do you remember? A-- Well, whatever the interest amounted to.

W. Glover, cross-ex, Defendant

BY MR. SMITH: Q--Whatever what interest amounted to?

A--It would be around twenty thousand, I suppose.

Q--You mean, you took a new mortgage in 1944 for the fifteen thousand, and the interest on the fifteen thousand up to that date? A--Before it ran out.

Q--But that was never signed by Mrs. Glover, is that right?

A--As far as I know, she signed it.

10 Q--It was never signed by Mrs. Glover? A--I did not know that.

Q--You have not got that mortgage, have you? (No answer)

Q--Have you got it? A--No-I know that mortgage was signed.

Q--Well, have you got it? A--Well, I suppose I must have it.

Q--Now, come, come. You cannot fool us that easily.

HIS LORDSHIP: Q--Does it show on the abstract?

MR. SMITH: A--No, but he has told me all about it on the examination for discovery.

MR. GIBSON: Here it is. (producing) It is not a mortgage.

20 BY MR. SMITH: Q--This is an agreement extending the other mortgage, and that was signed on the 15th of June, 1944? A--Well, that is the one I am referring to.

Q--That is signed, "Albert Glover and W. R. Glover," and that is for fifteen thousand dollars-renewing the fifteen thousand dollar mortgage, and stating that there is interest at five percent on that mortgage from the 1st of July, 1938:

30 "Now this Agreement Witnesseth that in consideration of the premises and of the sum of one dollar to him paid by the party of the Second Part, he, the said party of the First Part, hereby agrees that the said sum of nineteen thousand, five hundred (\$19,500.00) shall be payable as follows:

\$500.00 of the said principal sum with interest accrued on the 1st days of January and July in each of the years 1945-46-47 and 1948.

\$500.00 on the 1st day of January, 1949, and the balance of the principal amount together with all accruals of interest on the 1st day of July, 1949."

40 Q--So you and Albert did continue your business pretty nearly up to the time you had the quit claim deed signed. Is that your signature, Doctor? A--Yes, that is mine.

Q--And that is Albert's signature? A--Yes.

HIS LORDSHIP: Q--It is not signed by the wife?

MR. SMITH: A--No, just by Albert. That will be exhibit eighteen.

Exhibit Number (18):- Agreement dated June 15, 1944, between William R. Glover and Albert Glover.

W. Glover, cross-ex, Defendant

BY MR. SMITH: Q--And, Doctor, how did you happen to get that document signed in June 15th, 1944? A--How?

Q--Yes, why? A--We renewed the old mortgage.

Q--You wanted to consolidate everything up to date, didn't you? A--Well, so the other mortgage would not run out. It had run almost five years.

Q--You did not want to let the other mortgage run out?

A--Yes.

10 Q--And you took that to show what Albert owed you up to that date? A--No, that was not to show what he owed at all. It was not to show the full amount that he owed up to date.

Q--Are you saying that seriously? A--Yes.

Q--Did you ever play marbles for keeps when you were a small boy, or did you always play for fun? (No answer)

HIS LORDSHIP: We will adjourn now until tomorrow at ten o'clock.

20 (Whereupon the further proceedings were adjourned at 5.15 P.M., of the 20th of February, 1947, to resume at ten o'clock A.M., of the 21st of February, 1947.)

(On resuming at ten o'clock A.M., of the 21st of February, 1947)

( DOCTOR WILLIAM R. GLOVER, resumes witness stand.)

(Cross-examination by Mr. Smith continued)

BY MR. SMITH: Q--Doctor Glover, what is the difference between your age and Albert's? A--He was seventy-nine-do you mean when he died?

Q--Yes, when he died. A--Well, he was seventy-nine. That would be a year ago last-

30 Q--He was seventy-nine when he died? A--Yes. That would be eight years.

Q--Were you younger? A--Oh, yes.

Q--Eight years? A--Yes.

Q--Now, Doctor Glover, you have, as you have told my friend, been practising dentistry for a long time in the City of Kingston? A--Yes.

Q--And you are a successful dentist, a successful practitioner. Is that right? A--Yes.

Q--And you are quite well off? A--Yes-I saved my money.

40 Q--And you have added to your holdings in 1943 by the acquisition of the Robertson property; is that right? A--Yes.

Q--And who negotiated for the purchase of your own house when you bought it, where you live? A--Well, I did, of course-I bought the house myself, but my brother gave a cheque for me, that is, just to close the deal.

Q--Who did? A--My brother Albert.

Q--Albert gave the cheque that closed the deal? A--Yes.

Q--And who negotiated the purchase of the Robertson property?

W. Glover, cross-ex, Defendant

A--I did.

Q--Personally? A--Yes.

Q--What did Albert have to do with that? A--He had nothing to do with it, any more than he told me to buy it, that is all.

Q--He told you to buy it? A--That is all.

Q--He told you it was there available? A--Yes, we both looked at it together.

10 Q--And that you could make money by buying it? A--We thought we could.

Q--And he also told you your own house was a good buy at the time? A--Yes.

Q--And it was a natural thing for you to want to help him at any time? A--Yes.

Q--And especially in 1935 when you had received this letter from the London Life, was it not? A--Yes.

Q--And what did you do to help him then, Doctor? A--What did I do?

20 Q--Yes? A--I paid off the demands of the London Life, so he could have a home, instead of taking it over.

Q--Then what did you and Albert agree upon to take care of that advance? A--He agreed to let me have all the rents, and he would live there.

Q--How do you mean, to let you have all the rents? A--I had to collect all the rents.

Q--Do you mean, that he was going to collect the rents and take them down to you; is that right? A--Well, I was to have the renting, I was to collect the rents. We notified all the tenants  
30 that I was to have the rents.

Q--And that was to secure you for this advance you had made to the London Life; is that right? A--Well, if I had not done that, the London Life would have sold it. It was to secure that he would have a home.

Q--But you were to collect the rents to secure him for the advance of three thousand dollars? A--Yes.

Q--And you collected those rents then - did you collect the rents or did Albert collect them? A--Some of them made their cheques out to me, and others made them out to him, and I did not  
40 object, because it looked better for him - he felt better over it.

Q--You did not object to what? A--To them making the cheques out to him, because he endorsed them over to me.

Q--Tell me what happened at the end of a month, approximately, for example. A--He brought down to me the cheques that he did not need for his own running expenses or of the help - he kept whatever cheques - I never questioned what cheques he kept.

Q--And the cheques that he brought down to you, he brought down to your office where you carried on your dental practice? A--Yes.

50 Q--And he handed the cheques and money over to you there? A--Yes, with little slips.

Q--With little slips, and what did you do? A--And I entered them in my book. When I did not get a cheque from a tenant, I left blank, and the others I deposited in an account that I called a trust account.

W. Glover, cross-ex, Defendant

Q--Did you open a trust account at that time? A--At that time.

Q--And in that you put this money that Albert brought to you? A--Yes.

Q--And you kept that separate? A--I kept that entirely separate.

Q--And that was marked as a trust account, was it?

A--Marked as a trust account.

10 Q--You did not use any moneys in there for your own purposes? A--There were some occasions -

Q--You borrowed from it? A--But I always paid it back.

Q--If you borrowed a few dollars or a couple of hundred, you paid it back again? A--Yes, I paid it back.

Q--As your book shows? A--Yes.

Q--And then out of that money, you paid the expenses, such as coal, and usually Albert would bring down the bill to you?

A--Yes, well, the bills were sent to me. The Bills all came to me.

20 Q--He brought some to you, didn't he? A--Well, the companies all sent the bills to me.

BY HIS LORDSHIP:

Q--What is that? A--The lumber and that - the bills were sent to me - the electric and water all came to me.

BY MR. SMITH: Q--And no matter where you got them, you paid those running expenses? A--Yes.

BY HIS LORDSHIP: Q--And taxes? A--Yes, and taxes.

BY MR. SMITH: Q--And interest? A--And interest.

30 Q--And payments on the London Life mortgage? A--Yes, I kept everything paid.

Q--Did you ever give Albert a statement of that from time to time so he could see where he stood? A--Well, he knew where he stood.

Q--Wait a minute. I have asked you a question. Will you please answer it? You did not ever give him a statement? A--Well, if we were doing any building and I thought he wanted to know how much it would cost, -

Q--No, I am not talking about. I am talking about a statement as to how he stood with you? A--No.

40 Q--You never gave it to him? A--No, not for the mortgage and things.

Q--So, as far as he was concerned, he simply poured money into you and you paid it out in expenses, and he never knew where he was at? A--We had an agreement that I was to have all, but instead of taking them all, I let him use what he wanted.

Q--Now, do you know what balance you had in your trust account in July, 1944? A--Well, I could not say offhand.

Q--Just tell me how much balance you had in your trust account in July, 1944? A--Well, that would be in the bank book -

W. Glover, cross-ex, Defendant

Q--You cannot tell me what amount you had as a credit in July, 1944, in your trust account with the Bank of Montreal? A--No, I know one of these years, the trust account owed me over three thousand dollars.

Q--You cannot tell me what amount you had as a credit in July, 1944, in your trust account? A--No, I could not.

Q--And there may have been ten thousand dollars credit in the trust account? A--There never was.

10 Q--There may have been five thousand dollars? A--No, it was never very big.

BY HIS LORDSHIP: Q--What do you mean by that? Could you give us any idea what it would run at? A--Well, more likely it would be a few hundred.

BY MR. SMITH: Q--More likely a few hundred? A--Yes.

Q--I am not quite as green as you think, and I know something about apartments. How much money did you make a year out of those apartments? A--Well, I could not tell you offhand, because I know they did not pay their way for years.

20 Q--They did not pay their way? A--No.

Q--Now, just let us see. In 1935, you had coming in from Mrs. Hughes eighty dollars a month; you had coming in from Sam Abramsky eighty dollars a month, and from Mrs. Nelson, fifty-five, from Ed. Green, fifty dollars; and from Professor Jelly, seventy-five, from Arthur Morris, forty, from Mr. Mills, fifty, from Mabel Edwards, forty-five, from Mrs. Nickles, fifty. That is only nine of them, and there are fourteen altogether, aren't there? A--There would not be fourteen then.

Q--How many were there then? A--There was only twelve.

30 Q--There were only twelve. Then there are two more to come.

BY HIS LORDSHIP: Q--Why would there be only twelve in 1944? You are not telling me that there were apartments vacant, are you? A--This was in 1935-

BY MR. SMITH: Q--What about Mr. Carruthers. Was he there? A--That one was changed in 1945-

Q--Was he there in 1935? A--Yes.

Q--What was he paying? A--I would not be sure offhand,-- seventy-five or eighty.

40 Q--And what was George Robertson paying? A--Fifty dollars.

Q--Fifty dollars? A--Yes.

Q--There is \$650 or \$700 a month? A--I might say that I never got any of that-

Q--Of what? A--Of George Robertson -

Q--Why didn't you? A--Because my brother owed the Robertson company, and he was just letting the rents go to pay it off.

Q--And George Robertson is the man whose house you now own; is that right? A--No, George Robertson - no, that is not right.

Q--Isn't that the Robertson property?

W. Glover, cross-ex, Defendant

MR. RIGNEY: His mother owned the house, Mr. Smith.

BY MR. SMITH: Q--Did George ever live in that house that you call the Robertson house? A--I think he did at one time.

Q--You know perfectly well that he did, do you not? A--I beg your pardon?

Q--You know that he did? You remember George Robertson living there? A--Yes, well, that was years ago, and it was vacant for a long time.

10 Q--That is where he used to live. You were getting then - at least, the property was bringing in then something around seven hundred dollars a month; is that right? A--Well, I did not get that much.

Q--At that time you show \$525. Of that \$525 a month, how much would you pay out for running expenses - upkeep? A--Well, the coal was around fifteen hundred dollars a year - it was an awful coal bill down there.

20 Q--Fifteen hundred dollars in 1935? A--Yes, it was tremendous. The Income Tax always objected to it, but those were the figures. We were always spending money up there.

Q--What did you spend the money on? A--We put in an oil unit, for one thing. We put in two units.

Q--That would make the property worth more money, or with changing over to make more apartments, to increase from twelve to fourteen? A--Well, that was later, and they were not paying, and that is why we did that. My brother suggested we would get more rent.

Q--You made that change at your brother's suggestion?

30 A--We changed the Huglo that we have there into two; at his suggestion. The people did not want big apartments at that time, you could not rent big apartments - so many of them were vacant.

Q--So you changed the Huglo into two? A--Yes, by adding a machine, and we spent around twenty-five hundred dollars at that time.

Q--And did you get more revenue in that way? A--Yes.

Q--What was the total rent after that time? A--From those two apartments?

40 Q--From the whole place - garages and everything? A--I never got anything from the garages. The garages went with the house.

Q--What was the total rent, including everything? A--I could not tell you offhand.

Q--Well, suppose I told you they were \$890, would you agree with that - \$890? A--Well, I could not say, because I would have to look in my book. I have not got the figures before me. This other book there will show it.

Q--Will you just look at your book, please, and tell me what the rents were then - after the change was made - after you had fourteen apartments? A--We must have made the change in 1941-



W. Glover, cross-ex, Defendant

BY HIS LORDSHIP: Q--That is when you converted the apartments into fourteen, was it? A--Well, that would not be fourteen then - 174 Earl was made into ten apartments instead of nine.

BY MR. SMITH: Q--How much rent were you getting in 1941? A--\$635 is shown here.

Q--That is what you got yourself? A--Yes.

Q--But how much was the whole building producing? A--Well, that would be the whole building. That is all I got.

10 BY HIS LORDSHIP: Q--How much? A--\$635. That is for January, and for February, \$602.

BY MR. SMITH: Q--What caused the drop? A--Because I did not get as much money from the rents.

Q--Do you mean, someone did not pay you? A--Those blanks, I did not get any cheques. Albert got them.

Q--You mean, he did not hand them in to you? A--No.

20 Q--I see you got quite - for several months you got \$737 a month, in that year - in May and to August - in the months around there - \$737 - let us just see what that would come to. Say we average it at \$700. That would be \$8,400 a year, wouldn't it? A--Well, it would not average that much, because here is one, \$535 - and here is \$520.

Q--Would Albert sometimes pay expenses himself? A--Sometimes he spent it for housekeeping, or -

Q--He did not spend very much for housekeeping? A--Well, he gave his wife one cheque every month.

BY HIS LORDSHIP: Q--Then there would be a cheque in excess of \$737 for May. If he took out one cheque and gave it to his wife each month - A--And then he kept cheques for other things -

30 BY MR. SMITH: Q--The total for the building would be more than \$737 in May? A--Well, he kept - some months he kept two or three, perhaps.

Q--I see. Now, let us look at 1944. In 1944, you seem to have been getting most of the rents? A--Yes. Well, the war did that - the war was on, and the apartments were occupied. The depression years had gone.

Q--In November, Albert collected Mills' rent, and kept it, and I see that he collected Godwin's rent? A--Yes, he did not always keep the same one -

40 Q--He kept rents - as he had them in his pocket, he used them, perhaps? A--He said that he needed them for something, and he would use it, and I never questioned it.

Q--There was no change - it went right through until his death just the same, didn't it? A--Yes.

BY HIS LORDSHIP: Q--Where is 1944? You are now looking at exhibit number fifteen, is it?

MR. SMITH: Yes, my Lord - 1944, and let us get the rents in 1944 - how much was Crawford's rent? A--Sixty dollars.

Q--Carson? A--Seventy-five.

W. Glover, cross-ex, Defendant

Q--Palmer? A--Seventy-five.

Q--Green? A--Fifty.

Q--Morton? A--Seventy-five.

Q--Mills? A--Fifty.

Q--Reid? A--Forty-five.

Q--Gardner? A--Forty-seven.

Q--Mrs. Guild? A--Fifty.

Q--Mrs. Stacey? A--Eighty.

10 Q--And there is another Gardner - Mrs. Gardner, sixty-four,  
isn't it? A--That should be Mrs. Rowland - sixty-six.

Q--And who was the other one in 172 - you have got a name  
I cannot decipher here very well. A--Oh, Doctor Palmer, he was in  
there.

Q--An apartment, at seventy-five dollars? A--Yes.

Q--Were there are blanks, Albert kept the rent? A--Yes.

Q--Apartment 4 was forty-five dollars. That is Doctor  
Palmer's - I am sorry - that is Doctor Glover's apartment? A--Yes.

20 Q--And is that the lot? A--That is the lot. That was put  
down from fifty to forty-five because -

Q--And how much did you get for the garages? A--I did not  
get anything.

Q--For all of those garages? A--No.

Q--You just gave them free? A--Yes.

HIS LORDSHIP: What month are you referring to?

MR. SMITH: I was looking at January, and I was just going  
down the list of tenants. In some cases, Albert kept certain rents.

30 HIS LORDSHIP: Q--\$489 in January, and \$629, and \$552,  
and in October \$676, and then \$714 - A--The accountant has them all  
added up.

HIS LORDSHIP: Q--Is the accountant going to be called?

MR. SMITH: A--Yes, my Lord.

HIS LORDSHIP: Then I won't go into this any further.

BY MR. SMITH: Q--Albert continued right up until his  
death to carry on just the same? There were no changes in the way  
that he carried on, or in the way you carried on? A--No.

Q--I show you a discharge of mortgage, and that is discharge  
number 47142, dated July, 1931. Is that your signature? A--Yes.

40 Q--And that is drawn by Mr. Webster, who was -- he was in  
his brother's office and his brother was a lawyer? A--Yes.

Q--This was drawn in Mr. Charles Webster's office, and says:

" I, William R. Glover of the City of Kingston in the County  
of Frontenac.

DO CERTIFY THAT Albert Glover has satisfied all money due on,  
or to grow due on, a certain Mortgage made by the said Albert Glover  
to Me, William R. Glover, which Mortgage bears date the First day of  
January, 1927, and was registered in the Registry Office for the  
Registry Division of Kingston and Frontenac on the 23rd day of August,  
1928, at 39 minutes past One o'clock in the afternoon, in Book 48 for

W. Glover, cross-ex, Defendant

the City of Kingston as number 44453.

And that such Mortgage has not been assigned.

And that I am the person entitled by law to receive the money.

And that such Mortgage is therefore discharged."

HIS LORDSHIP: Q--What is the date of that?

MR. SMITH: A--The date of that is the blank day of July, 1931.

BY MR. SMITH: Q--I show you another discharge of mortgage,  
10 number 51942, dated July 11th, 1938, and that says:

" We, William R. Glover and Robert J. Glover of the City of Kingston and Camden East respectively in the county of Frontenac do certify that ALBERT GLOVER has satisfied all money due on or to grow due on a certain Mortgage made by the said Albert Glover to William R. Glover and Robert J. Glover.

which Mortgage bears date the First day of July 1931 and was registered in the Registry Office for the Registry Division of Kingston and Frontenac on the 15th day of July 1931 at 35 minutes past Two o'clock in the afternoon in Book 50 for the City of Kingston  
20 as Number 47141

And that such Mortgage has not been assigned.

And that We are the persons entitled by law to receive the money. That such Mortgage is therefore discharged."

Q--That is your signature? A--Yes, it is mine.

Q--And your brother's; is that right? A--Yes.

Q--At any rate, that is the discharge, drawn by your brother, probably. I do not think Mr. Gibson has the certified copies prepared yet.

HIS LORDSHIP: The certified copies will be exhibits nineteen  
30 and twenty.

Exhibit Number (19):- Certified copy of Discharge of Mortgage, dated blank day of July, 1931, between W. R. Glover and Albert Glover.

Exhibit Number (20):- Certified copy of Discharge of Mortgage, dated 11th July, 1938, between William R. Glover and Robert J. Glover and Albert Glover.

BY MR. SMITH: Q--When you were telling about 1935, you said, "After that, Albert agreed to let me look after the finances," and it was then you opened a trust account with the Bank of Montreal. Now,  
40 Doctor, do you ever know of your brother being a client of Mr. Dwyer's?  
A--Well, I could not say that he was a client, but he may have gone in occasionally -

Q--He went down there with you - you were a client of Mr. Dwyer's? A--Not until very recently.

Q--Well, you were a client recently? A--Yes.

Q--You became a client of Mr. Dwyer's, and your brother went down there with you at your request on those occasions. Is that right?  
A--Yes.

W. Glover, cross-ex, Defendant

BY HIS LORDSHIP: Q--Let us be perfectly plain. What you say is that your brother was not a client of Mr. Dwyer's to your knowledge? A--Not to my knowledge. He always spoke well of Mr. Dwyer, though.

Q--And he went down there on two occasions to Mr. Dwyer's office with you? A--I think on at least two occasions.

BY MR. SMITH: Q--That is the occasion when you had the extension of the mortgage? A--Yes.

10 Q--And the occasion when you had the quit claim deed? A--Yes.

Q--And when you had the quit claim deed, you did not pay any attention to what went on? A--I asked Mr. Dwyer to explain the whole thing, and he said that he would.

Q--You must not say what Mr. Dwyer said. Did you hear him explain that? A--Yes, I heard him explaining it. He was talking to them with these papers before them, so I suppose that is what they were talking about.

20 Q--But you did not know - you do not know what they were talking about, do you? A--Well, they had the papers before them - before my brother and his wife.

Q--You are under oath, and I do not think you want to perjure yourself? A--No, I do not.

Q--Did you hear Mr. Dwyer explain any quit claim deed to your brother Albert? A--Well, I could not say that -

Q--The answer is No, is it? A--Well, I was not close enough to hear what he was talking about.

Q--You were not close enough to hear what Mr. Dwyer was talking about? A--No - to know what he said.

30 Q--I suggest, Doctor, that when you first arranged with Albert, as you have told us, when he agreed to let you look after the apartments for him, at that time I suggest you did not have any very great personal interest in the matter of running apartments; is that right? A--I never had any use for apartments. I was forced into it.

Q--You did this purely to help Albert? A--I did it purely to help Albert. I always helped him, no matter what he wanted, and he helped me.

40 Q--But later on, Doctor, you took a greater interest in the apartments? A--Simply because I had to.

Q--Well, you did take a greater interest, didn't you - very gradually, but you began to assume a greater interest in those apartments? A--Because I had to.

Q--You went up there on Wednesday afternoons, and you and Albert went around and sat in the cellar and talked? A--Very little - very little.

Q--You remember sitting in the cellar on Wednesday afternoons? A--Just to ask him something, that is all -

50 Q--But you had Wednesday afternoons off? A--I had other things to do besides talk to him.

Q--Do you deny you were up there nearly every Wednesday afternoon? A--It was only for a very few minutes.

W. Glover, cross-ex, Defendant

Q--But you were always there, though? A--I beg your pardon, I was not.

Q--Sometimes you stayed longer than others, didn't you? A--Of course, I did. We used to go out in the country. He used to ask me to take him out.

Q--And gradually you became quite interested in the apartments? A--No.

10 Q--So much so that you went into the Robertson house and made it into three or four apartments? A--I was very doubtful about it - I never liked apartments.

Q--But you did do that, didn't you? A--I did.

Q--As time went on, you got greatly interested in these apartments? A--Well, he thought it would be a good thing for me. I had my doubts.

Q--I remember seeing you up around the Robertson house quite a bit? A--Yes.

Q--I remember asking you about the rent situation, and you got very nice rents for it, didn't you? A--Well, we had to -

20 Q--One hundred dollars for one? A--Yes.

Q--And \$125 for the other? A--\$120.

Q--And so on, and it is a good thing, isn't it? A--Well, it has turned out that way, but it might not have. It lay there for years.

Q--And Albert put an awful lot of his heart and soul into that? A--Yes, and that is what saved his life. I did it for his sake -

Q--You got him interested in that and kept him busy? A--He got me interested in it.

30 Q--And then you got interested in it, and were up there a lot -- A--Well, around that place, yes.

Q--And you took an interest in letting the contracts to these men, some of whom are sitting in the court room? A--Yes.

Q--And Albert planned it all out, and it was a very difficult house to convert, wasn't it? A--He just loved that kind of work.

Q--And you let him work at that, and he worked at it for over a year, didn't he? A--Not in the planning of it over a year. He was around there.

40 Q--He was the only architect you had? A--Yes.

Q--And not only was he an architect, but he devoted himself to that place for over a year - his time and his efforts and his attention? A--Yes, and I think that lengthened his life. If he got pleasure out of anything in life, that is what it was, and that is what I did it for.

Q--And he was the one who suggested that venture? A--He suggested it - well, we did not count on an apartment house when we got it. We were going to sell it as it was, and we did not get a chance.

W. Glover, cross-ex, Defendant

Q--But you did sell a house to Harry Wilder? A--Yes, the only thing we could do was to make it into apartments or let it stay there.

Q--So you made it into the very good paying proposition of an apartment? A--Yes, I think it was a credit to the City.

Q--And the Glover apartments on Earl Street today are a good paying proposition; there are gross rents there of ten thousand dollars a year? A--They are a paying proposition to me, but what were they when I took them over? - they were a dead horse.

Q--You mean, when you started managing them for Albert? A--I saved them for Albert. I could have closed off then and taken them over, but I did not do it.

Q--You mean, you saved it because you replied to the letter from the London Life? A--I saved them for his sake.

Q--And you got your money back? A--Yes, as it turned out. If the war had not come on, I suppose I would have lost it. It was lucky for him, and it turned out all right for me.

Q--It turned out very nicely for you? A--It turned out nicely for him too.

Q--How much was Albert worth after the quit claim deed was signed in 1944 in August? A--He was not worth anything.

Q--He was not worth anything? A--No.

Q--Not a dollar? A--No.

Q--What was he worth before that? A--Before the quit claim deed was signed?

Q--Yes. A--He was just in the same position.

Q--He owned all the property that was described - A--It was in his name -

Q--He owned all the property that is described in the quit claim deed, did he not? A--Well, it was in his name, yes.

Q--Certainly, he owned it, and by that stroke of the pen, he divested himself of everything he had in the world? A--Well, I suppose, excepting the moveable property -

Q--And if he knew what he was doing, which I doubt, he left his wife penniless and destitute and an object of charity? A--He knew I would always look after him.

Q--I have no doubt you told him that - did you tell him that? A--No, but he knew that.

Q--You did not tell him that? A--Just the same as I let him live there, and he said that he did not own anything, and he had a home.

Q--Did you gradually by a very gentle persuasive series of little conversations in the cellar manage to get into Albert's mind that he owed you an awful lot of money? A--Nothing of the kind.

Q--And that he did not own anything, and that he was a very lucky man to be alive. A--No.

W. Glover, cross-ex, Defendant

Q--Did you gradually get it into his mind that he was a pauper, and that he was broke? A--No.

Q--I suggest that, very subtly, very gradually, you got the idea across to your brother Albert that he did not have a thing in the world and that anything he had he owed to you. A--No, he knew that from the time that the London Life foreclosed.

Q--He had implicit confidence and trust in you? A--Yes, and if he were living today, we would settle it in five minutes.

10 Q--And if you asked him to sign his name, he would sign it as quick as a flash, wouldn't he? A--Well, he would know it was all right.

Q--He would, wouldn't he? A--Yes, he knew it would be all right.

BY HIS LORDSHIP: Q--He would sign what you asked him to sign? A--Yes.

BY MR. SMITH: Q--And trust you to do the right thing? A--Yes, and so would I - it was a mutual trust, but for the rest of the family, it was not.

20 Q--Mutual trust and confidence? A--Yes.

Q--And Albert would bank his soul that you would do the right thing? A--Yes.

Q--And if you asked him to sign anything, he would sign it without a question or without thinking of any possibility that things might not be as he thought? A--I saved him from bankruptcy -

Q--He would sign anything you asked him? A--If I asked him to sign, he would, but I never asked him to sign except the mortgages.

30 A--Yes. Q--You asked him to sign that extension of mortgage?

Q--And you asked him to sign the quit claim deed? A--Yes.

BY HIS LORDSHIP: Q--Did he ever talk to you about a will, Doctor? A--No, he never mentioned a will.

Q--Did he explain at all Mr. Dwyer executing a will and leaving his wife the estate and the remainder to his son? A--No, that was all between him and Mr. Dwyer.

Q--You never discussed it at all? A--No, I had no interest in the will. I did not think there was any use in having a will, and he told me that, too.

40 BY MR. SMITH: Q--Just another question - did you notice how Albert was going downhill in the last four years? A--He was kind of physically, but not mentally.

Q--And he was kind of crazy, was he? A--What is that question?

Q--Was he a bit crazy? A--No, no more than I am.

Q--He had some funny ideas? A--Well, on the Russian situation, he had.

Q--And you remember when Albert would go to church every Sunday morning, do you not? A--No, I do not.

W. Glover, cross-ex, Defendant

Q--Well, he did. A--To church?

Q--Yes. A--Well, he did not go to church much.

Q--He became an atheist in the last three years. Do you know about that? A--No, he was no atheist.

Q--And he did not want to see people? A--He wanted to see people.

Q--He did not want to stop and talk to people on the street?

A--I think he did.

10 Q--You never saw him smiling in the last three years, did you? A--Yes, he was telling stories and jokes, and keeping everybody amused.

Q--But you never saw him smiling on the street? A--Well, I could call lots of witnesses that he always delighted in telling a joke.

Q--I know that he did at one time. A--Well, he did at the last, even before he died.

20 Q--But he was gradually slipping all the time? He was doctoring when he was over at the Robertson house? A--Well, I do not think that he hardly ever saw a doctor.

Q--He was complaining about being ill? A--Well, he had something - he never told me - no - almost to the last, he could talk on anything. He was down a few days before he died, and he said that he would be as well as he ever was.

Q--He would never admit that he was sick? A--Oh, no, he was getting up when he died.

Q--He was trying to get up when he died. That is all.

The witness retires.

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30 JOHN ATHEARNE PARTRIDGE, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. GIBSON.

OF COUNSEL FOR THE DEFENDANT:

Q--Mr. Partridge, you are a chartered accountant? A--Yes, sir.

Q--And you were employed in the office of Ingram and Leonard, chartered accountants, Kingston, for seven years? A--Yes.

Q--Prior to establishing your own office? A--Yes.

40 Q--You have been instructed to look into the accounts by Doctor W. R. Glover in relation to his financial transactions with Albert Glover, deceased? A--Yes.

Q--And you prepared a financial statement? A--I have.

Q--Based on what records were presented to you? A--I did.

Q--And what investigations you made? A--Yes, sir.

Q--Now, dealing with the apartment buildings, were there certain books given to you? A--Yes, there were two books.

Q--What is that book? A--That is a record of rents received by Doctor Glover.



J. Partridge, dir-ex, Defendant

Q--A record of rents received? A--Received by Doctor Glover for the Glover apartments.

Q--And what is this book? A--That is a record of expenses paid by Doctor Glover on behalf of the Glover apartments.

Q--Was there a bank account which you investigated? A--Yes.

Q--And where was that bank account? A--In the Bank of Montreal.

10 Q--And what was it labelled? A--William R. Glover in trust, or Doctor William R. Glover in trust.

Q--Did you investigate the entries in that bank book? A--Yes, and the cancelled cheques.

Q--And when was that bank book opened? A--In 1935.

Q--Have you prepared a statement for the period 1935 to 1941 in relation to the apartments? A--Yes, I have.

20 MR. SMITH: Q--Of what is the statement? My position is that if the statement is confined now to the two books which are exhibits, then I have no objection. There has been no bank book put in at any point. The bank book is not before the Court.

MR. GIBSON: It has been referred to.

HIS LORDSHIP: Q--If you want it produced, you can order production. If anything material turns on the bank book - what would you use the bank book for? A--Well, I had the cancelled cheques. There was a current account, and I have the cancelled cheques and the records out of the bank.

30 Q--But your figures as they are set forth in your statement are figures which come from the two books, exhibits fifteen and sixteen, that have been put in? A--And from the cancelled cheques, and the deposits.

MR. SMITH: Q--In what account? A--Of the trust account.

HIS LORDSHIP: All right.

BY MR. GIBSON: Q--Have you the bank book there? A--Yes. This is a statement from, I think it was 1939, the Bank of Montreal started using statements rather than a pass book.

Q--The pass book was used for what period then? A--I think 1939 is the first year there was a statement. All that are recorded in the pass book are the deposits from that time on.

40 Q--So, putting it briefly, from 1935 to 1939, the pass book was used, and from then on, the bank statements? A--Yes, the statements started in about March 2nd - March 2nd seems to be the first statement I have here.

Q--1939? A--Yes, 1939.

Q--I hand you a document bearing your signature. What is that? A--That is a statement that I prepared.

Q--That is the statement you prepared. Now, there are a number of pages in this report. I note page three reads: "Operating Statement - Glover Apartments, for the period 17th April, 1935 to 31st December, 1935?" A--Yes.

J. Partridge, dir-ex, Defendant

Q--The top part? A--Yes.

Q--And that is a statement of receipts - the receipts are taken from the book there? A--Yes.

Q--And disbursements, and the disbursements are taken from what? A--From the cancelled cheques and from the pass book.

Q--At the bottom of this statement there is a heading, "Summary of Receipts and Disbursements re-Glover Apartments For the period 17th April 1935 to 31st December, 1935." A--Yes.

10 Q--Now, what is that? A--Well, that is -

BY HIS LORDSHIP: Q--Is that statement numbered? Are the pages numbered?

MR. GIBSON: A--No, but I will number them right now. That is page three, my Lord.

WITNESS: That is showing the rental income and other receipts that the Doctor had - payments such as mortgage principal, and payments to Albert Glover, showing money put into the account of Doctor W. R. Glover.

20 MR. SMITH: Of course, I understood that this statement was just within the four corners of these books.

HIS LORDSHIP: So did I.

MR. GIBSON: A--So it is, my Lord. It shows all the receipts and disbursements in the bank account. This is the bank reconciliation statement at the bottom. The first strictly refers to the receipts received from the book, and disbursements made in regard to what you would refer to as expenses in operating the apartment, exclusive of any bank charges, mortgage charges, and loan principal and that sort of thing. Those are put through the bank, and the latter statement is a reconciliation of the bank statement for each year.

30

HIS LORDSHIP: Q--You are speaking about the bottom of page three in the statement?

MR. GIBSON: A--Yes, that is right.

BY MR. GIBSON: Q--On page four, I see a similar statement for the period 1936? A--The year ended 31st December, 1936.

Q--And you prepared a similar statement? A--Yes.

Q--A statement of receipts and disbursements, and what may be referred to as a bank reconciliation statement; is that correct? A--Yes.

40 Q--On page five is a statement for the year ending 31st December, 1937? A--Yes.

Q--Now, in some of the years, I note that there is an excess of receipts over disbursements? A--Yes.

Q--And in other years, there is an excess of disbursements over receipts? A--Yes.

Q--I also notice in looking at the bank reconciliation statement that there are some years Doctor Glover put in considerable sums, and other years, either none at all or very little? A--Yes.

Q--Now, on page two you have prepared a summary? A--Yes.

50

Q--For the whole period? A--Yes.

J. Partridge, dir-ex, Defendant

Q--17th April, 1935, to 29th July, 1944? A--Yes.

Q--Which indicates what? A--That the excess of receipts over disbursements for that period are \$7233.11.

Q--Now, included in these disbursements are there items which might be referred to as capital expenditures or capital improvements? A--Well, they had a fire, and received an insurance claim of \$8,920, and the cost of rebuilding the apartments would be in here.

Q--In the disbursements? A--Yes, to the best of my knowledge everything is in here.

10 BY HIS LORDSHIP: Q--You say the receipts show, too? A--Yes, \$8,920.13.

BY MR. GIBSON: Q--For instance, when they bought Kelvinators or a new furnace, that would be shown just as an ordinary disbursement; is that correct? A--Yes.

Q--And when they made an alteration in the apartment, that is shown just as a disbursement? A--Everything that was spent in connection with the apartment that I know of is in the statement.

20 Q--And the reason you do not attempt to show them as a capital expenditure is because you made no allowance at all for depreciation, so you have not attempted to capitalize anything; is that correct? A--No, there is no allowance for depreciation.

Q--I show you on page one which is entitled, Statement of Revenue and Expenditure re Albert Glover for the period 14th September, 1920 to 29th July, 1944.

HIS LORDSHIP: A--What is this 1920? A--That is when the store was bought back.

MR. SMITH: That has nothing to do with the rents for the apartments. This is something outside of that.

MR. GIBSON: It is something that is pleaded, though.

30 HIS LORDSHIP: Q--Is this an accounting of all the moneys that came into Doctor Glover since 1920?

MR. GIBSON: A--No, other than what I have already said, it just includes the expenditure by Doctor Glover for the repurchase of the grocery store.

HIS LORDSHIP: Q--It may be interesting, but how does it -

40 MR. GIBSON: A--Doctor Glover has already given evidence that he repurchased the grocery store, so what Mr. Partridge has done is just gone to the bank and looked at the cheques and tried to reconstruct the transaction, and Doctor Glover mentioned the figure of \$13,000, whereas he has only been able to account for \$12,150.

MR. SMITH: Q--How can all that be evidence in this case, my Lord?

HIS LORDSHIP: A--Well, it should be evidence in this respect, I suppose - that part of the moneys paid, - between the two of them, - that it is part of the consideration for the quit claim deed, I suppose. It seems to me to be pertinent.

J. Partridge, dir-ex, Defendant

Q--Are those cheques in court here, too? A--Yes, sir.

MR. SMITH: This is going behind the mortgage. It is verbal evidence to contradict that mortgage.

HIS LORDSHIP: There is no use in going nine-tenths of the way.

MR. SMITH: You will take my objection?

HIS LORDSHIP: Yes, of course. Go ahead. The cheques are there. How is it made up? You were just referring to the first page. Is it itemized, these payments out, from 1920 to 1944?

MR. GIBSON: Well, we have only taken the one item, in 1920. That is the repurchase of the store.

Q--I notice on the expenditure side, the first item you have is mortgage principal, and it is \$11843.01? A--Yes.

Q--What is that? A--That is mortgage principal that was paid to the London Life by Doctor Glover.

Q--And you have cheques to support that? A--Yes, that was paid through the trust account.

Q--You also have a statement from the London Life? A--Yes.

Q--Now, the Bank of Toronto Loan, \$8502.48? A--Yes.

Q--For what period was that? A--1931 to 1933, I believe - from 1931 to 1934.

Q--Did you go to the Bank of Toronto? A--Yes, sir. I was given authority by Doctor Glover to go to the Bank of Toronto, and they gave me a copy of their liability sheets.

MR. SMITH: My Lord, this is all hearsay. We do not know of any loans from the Bank of Toronto. This is going into a lot of stuff that I submit is -

HIS LORDSHIP: Yes, he cannot give evidence in that way - by an examination of the Bank's liability sheets.

MR. GIBSON: Well, Doctor Glover has already given evidence that he made the loans, and put them to the credit of Albert Glover. He is going to say whether that is accurate or not. When he is trying to prepare a statement, he wants to have some basis for preparing it, and that would be the normal procedure - to find out if, in fact, the loan was ever made.

HIS LORDSHIP: Even if the statement goes in, it is not evidence. You would have to subpoena the bank, if there is any question about it, and have them prove it.

MR. SMITH: The foundation has not been laid for this. There has been no foundation laid for this.

HIS LORDSHIP: There is the foundation there - piled high on the desk.

MR. SMITH: I do not object to anything that deals with that there - that is, regarding the rents.

J. Partridge, dir-ex, Defendant

HIS LORDSHIP: Well, he told me where he got the information from. As to it being strictly evidence, of course, it is not. It is an explanation of the source of the information that he has put into this statement. I will note your objection.

MR. SMITH: My Lord, I do not want to object to -

HIS LORDSHIP: I understand.

BY MR. GIBSON: Q--Just one general question - to the best of your knowledge, are the entries which you made correct?

10 A--Yes.

Q--Now, this indicates that there was outstanding on the London Life mortgage as of the 29th July, \$13,500? A--Yes.

Q--Included in this expenditure is an interest item for \$20,431.47? A--Yes.

Q--And you have computed that figure at five percent? A--Yes, at five percent.

BY HIS LORDSHIP: Q--What is the twenty thousand? A--It is interest on these various moneys advanced by Doctor Glover since 1920.

20 Q--Away back to 1920? A--Yes.

BY MR. GIBSON: Q--You have an interest sheet which you compiled it from? A--Yes.

Q--That is \$20,431.47. Now, this indicates that Doctor W. R. Glover, on the revenue side, had an interest of \$59,941.70; is that correct? A--Yes.

MR. GIBSON: I will introduce this as an exhibit. It will be exhibit twenty-one.

30 Exhibit Number (21):- Financial Statement of Dr. W. R. Glover re Albert Glover, from 14th September, 1920, to 29th July, 1944.

BY MR. GIBSON: Q--Is there an item in 1926 for eight thousand dollars; is that included in that? A--No, there is not.

Q--You received no instructions on it until very recently? A--No, that is right.

Q--There was some confusion in the instructions given you? A--That is correct.

Q--And you thought that the eight thousand dollars referred to 1931 to 1934? A--Yes.

Q--And that is only- A--That is only the Bank of Toronto-

40 BY HIS LORDSHIP: Q--Do you mean your statement does not take into account the advance of eight thousand dollars made by Doctor Glover in 1936; is that what you say? A--Yes.

Q--So that actually the amount which you show, eliminating any interest figures you have given me, would be \$59,000, plus eight thousand dollars? A--Yes.

BY MR. GIBSON: Q--You have not received any other instructions of any expenses; you have not got any other vouchers to support anything you put in the statement. That is all the documents you found? A--Yes.

J. Partridge, dir-ex, Defendant

Q--And you have not found any other loans; you have not received any instructions of any other loans? A--No.

Q--Except this one? A--Except that one.

BY HIS LORDSHIP: Q--Did your instructions come from Mr. Gibson or from Doctor Glover? A--Last May, Mr. Gibson called me and asked me if I would go and see Doctor Glover, and all authority I have had has been from Doctor Glover.

10 Q--And your statement was compiled with Doctor Glover's assistance, I suppose? A--Yes.

Q--In connection with the quit claim deed, the amount set forth in the affidavit, and the land transfer tax, did the Doctor tell you to add interest to everything that he advanced? A--Well, I talked it over with Mr. Gibson.

Q--Did the Doctor ever ask you to add interest in? Did you ever have any discussion with the Doctor about interest? A--Yes, I talked it over with him.

20 Q--In the affidavit of land transfer tax, taken on the 29th of July, 1944, Doctor Glover - I propose to ask him to explain this figure - he shows a total consideration of \$32,444.25.

MR. GIBSON: Well, that did not include all the indebtedness, but it included the registered encumbrances against the land.

HIS LORDSHIP: That is what I want to get him back here for later - to find out what that thirty-two thousand dollars is.

MR. GIBSON: All right, thank you.

#### CROSS-EXAMINATION

BY MR. SMITH: Q--Mr. Partridge, I do not know very much about these accounts and statements, and so forth, but these are just the operating statements for each year; are they? A--Yes.

30 Q--Showing what was done each year, and some years - for instance, I notice one year you put in there, "repairs and replacements, \$5,450?" A--Well, that would be the year they had to rebuild after the fire. I would imagine.

Q--That would be the year of a fire? A--I think that is it - either that, or when they converted -

Q--If that was the year of the fire, why wouldn't the insurance be shown? A--Well, the year of the fire, or the year that they changed the apartment.

40 Q--This is the year - December 31st, 1942? A--I understand that is the year that they made some alterations in the apartment building.

Q--There was some changing over, is that right? A--Yes.

Q--Can you tell us that? A--Well, that is my understanding.

Q--Doctor Glover - in all those, you just know what you have been told by Doctor Glover or Mr. Gibson; is that right? A--Well, I have all the cancelled cheques here.

Q--But apart from those cancelled cheques - for instance. There is no document before you that gives you the right as an accountant to charge interest, is there? A--No.

50 Q--What is that? A--No, I have no document before me.

Q--You just charge that twenty thousand dollars of interest?

J. Partridge, cross-ex, Defendant

BY HIS LORDSHIP: Q--At what rate? A--Five percent.

BY MR. SMITH: You charged that from 1920 on? A--Yes.

Q--Compound? A--No, sir.

Q--Simple? A--Simple interest.

Q--Will you look at that statement, Mr. Partridge, please, on page one, and tell me what the total of the expenditures are outside of interest? A--Well, it would be roughly forty-seven thousand.

Q--Roughly, forty-seven thousand dollars? A--Yes.

10 Q--That would represent all the money that Doctor Glover shows as having been advanced to his brother, one way or the other? A--Well, the last item - the thirteen thousand - has not been paid yet, but the Doctor is liable for it, I understand.

Q--You do not know, of course, what Albert Glover may have paid back to his brother? A--I have just taken the records as presented to me.

Q--Unless it got into those accounts that you have seen, you would not know? A--No, I would not know.

Q--All right, thank you.

20

RE-EXAMINATION

BY MR. GIBSON: Q--That is forty-seven thousand, plus the eight thousand which is not in there? A--Yes.

Q--And the thirteen thousand dollar item - that is the London Life mortgage which had to be assumed and paid off? A--Yes, it is included in the forty-seven thousand.

Q--It is included in the forty-seven thousand? A--Yes, the total is sixty-seven thousand.

Q--The total is sixty-seven thousand? A--Yes.

30 Q--So you took off the London Life mortgage; is that correct? A--Well, Mr. Smith asked me how much -

Q--Sixty-seven thousand - you take off the London Life mortgage first, is that right?

BY HIS LORDSHIP: Q--What amount is that - the London Life mortgage? A--\$13,500. That is assumed by Doctor Glover.

BY MR. GIBSON: Q--It is forty-seven thousand plus eight thousand that is the correct amount? A--That is right.

MR. GIBSON: That is all, my Lord.

The witness retires.

HIS LORDSHIP: I wish to recall Doctor Glover.

40 DOCTOR WILLIAM RYERSON GLOVER, a witness having previously been called and sworn, and having given evidence, is now recalled by His Lordship:

HIS LORDSHIP: Is this still the original quit claim deed from the Registrar of Deeds' custody?

MR. GIBSON: That is the duplicate original, my Lord.

W. Glover, recalled, Defendant

BY HIS LORDSHIP: Q-- Doctor Glover, I notice on the last page of the quit claim deed that there is an affidavit which apparently you took on the 29th of July, 1944, and in which the total amount set forth as consideration is \$32,444.25? A--Yes.

Q--Where does that figure come from? A--There should have been the London Life added to that. There was a technical error there. There should have been the London Life added on to that.

10 Q-- How much - thirteen thousand? A--About thirteen thousand.

Q--You mean the amount which you paid originally to the London Life Insurance Company is not included in this thirty-three thousand? A--The London Life - there was still owing that much to the London Life. The London Life should have been added to the thirty-two thousand. I understand it should have been added to that -

20 Q--You mean, that was money that at this date still had to be paid to the London Life? A--Yes, still had to be paid to the London Life on that date.

Q--That was an outstanding encumbrance against the property? A--Yes.

Q--But apart altogether from the London Life mortgage, how did Mr. Dwyer get the figure of \$32,444.25 to insert in that affidavit? Did you give it to him? A--Well, there was the mortgage of \$34,500 - I thought he had it as forty-four thousand -

Q--Where did he get the figure? Did you give it to him, or how would he know it? A--Well, from the London Life - at least, the mortgage I think was \$34,500, but he counted it all up.

30 Q--That is, taking the mortgage at \$34,500, and adding some interest? A--Yes.

BY MR. SMITH: Q--Doctor Glover, at that time you had ascertained your liability with your brother Albert by the agreement extending the mortgage, and that was ascertained at the time at \$19,500. You remember that? A--Yes, I know, but we still -

Q--Is that right? A--I don't understand the question.

Q--I say, you had entered into an extension of the agreement? A--Yes.

40 Q--And that extension agreement which you had entered into and which I show you now is dated June 15th, 1944? A--Yes.

Q--And you remember what you told me about that, settling the matter between the two of you - about the balance that he owed you at that time? A--Well, it did not really settle it.

Q--Well, \$19,500 was the amount? A--That is the amount of the mortgage, but it did not really settle it.

Q--How much at that time was owing to the London Life? Was it \$13,100, or do you know? A--It would be either thirteen or \$13,500.

50 Q--Why did you tell me it was twelve thousand on your examination for discovery? Do you remember telling me that?



W. Glover, recalled, Defendant

Q--Do you remember saying that everything has been paid up to date, and there is still that twelve thousand- A--I am not sure of the figures at all -

Q--If you add the \$19,500 to the thirteen thousand, that gives you \$32,500, and Mr. Dwyer has it practically at that - yes, he has it \$32,444, so that is probably correct? A--It should have been registered with the London Life mortgage added to that.

10 Q--Doctor Glover, you took an affidavit before Mr. Dwyer in which you swore that the balance of existing encumbrances with interest owing at the date of transfer was \$32,443.25, didn't you? A--Yes, but that did not cover it.

Q--There is no reference to the London Life mortgage in this affidavit? A--No.

Q--Mr. Dwyer prepared this, didn't he? A--Mr. Dwyer prepared it.

Q--You do not know very much about it, do you? A--No.

20 BY HIS LORDSHIP: Q--Well now, Mr. Dwyer would get his instructions from you. He did not keep your books between you and your brother. Where did this figure of \$32,000 and some odd dollars come from if it did not come from you? He may have added on the interest, of course, but this encumbrance, as has just been pointed out - if you take \$19,500 and add \$13,000 to that, you get \$32,500? A--Yes.

Q--Wouldn't that be the explanation? A--He talked over with me about what was owing, and how much was owing to me, and I am not so sure of the figures that he came at -

30 Q--But it was because of the information you gave him, isn't that right? A--He knew that the mortgage of \$34,500 was cut, because it was too high for the property at the time, and on account of succession duties. I told him that we should have security, and that the other did not cover my equity.

Q--But he knew about the \$19,5000 extension agreement? A--Yes.

Q--He drew that, didn't he? A--Yes.

Q--And he also knew that the London Life mortgage was around about thirteen thousand? A--Yes, I told him that.

40 Q--All right. Was that figure discussed with your brother? Was your brother Albert present when that figure was discussed? A--No.

HIS LORDSHIP: Next witness.

The witness retires.

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LEONARD ARCHIBALD WHEELER, a witness being called and duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. GIBSON,

OF COUNSEL FOR THE DEFENDANT:

Q--Mr. Wheeler, you are an employee of S. Anglin and Company, Kingston? A--That is right.

L. Wheeler, dir-ex, Defendant

Q--And what is your occupation? A--I am an estimator and salesman.

BY HIS LORDSHIP: Q--Real estate? A--No, not real estate. S. Anglin and Company is in the lumber, millwork, and fuel business.

BY MR. GIBSON: Q--How long have you been so employed? A--Twenty-three years.

Q--And did you have anything to do with the apartment buildings at Earl Street, known as 170 to 174 Earl? A--I did.

10 Q--In 1926 and 1927, did you have something to do? A--Yes.

Q--What did you have to do? A--I sold Mr. Albert Glover quite large quantities of material, including doors, trim, celotex, and a number of other products.

Q--Did you have any dealings before you did the selling? How did you arrive at the price, and so forth, with Albert Glover? A--He gave me general lists of the materials that he required. I prepared prices, and discussed those prices with him, and took the business.

20 Q--Have you been associated continuously with the work of the Glover apartments since that time? A--Yes, from that time on, I do not recall of any work being done there of any size that I did not have to sell some material, or that I did not discuss the building and the work with Mr. Albert Glover.

BY HIS LORDSHIP: Q--Since when, did you say? A--That is since 1926-27.

BY MR. GIBSON: Q--Did you have any discussion with Albert Glover as to costs of the various undertakings? A--Yes, I did. From time to time a particular job might be planned and quite frequently Mr. Albert Glover would ask my opinion on it, and discuss with me what the probable total cost of a change might amount to.

30 Q--And were you in a position to give him any information? A--I was.

Q--Why? A--For a number of years, I have been doing estimating - to start with, Anglin some years ago had a contract, supplying both labour and material on jobs, and I did the estimating for them at that time, and so from that time on, after we had discontinued doing any contracting ourselves, I did estimating of the same type for others, because I had the knowledge necessary to prepare those estimates.

40 Q--Did you do so for the so-called Robertson apartment? A--Not in detail there, although I did have some discussions with Mr. Glover when the property was first bought as to what the cost might be, but I did not go into any great detail on that particular job.

Q--Could you give us some idea of what the apartment 174-170 Earl Street would have been estimated at in 1944? A--In what way? - from the angle of the cost of the building?

L. Wheeler, dir-ex, Defendant

Q--Yes, or what are you qualified to give -- to be replaced with a new building? A--If the entire building had to be replaced, I would say that, as it is there at the present time, it would cost -

Q--In 1944? A--In 1944, your cost could quite easily have run fifty or sixty thousand dollars. I would not say though that the property would be worth that.

Q--Would you build it in the same way? A--No.

10 Q--Would you use the space more economically? A--I think perhaps the space could have been - or, at least, the same amount of materials in a new structure would give you greater value. I will put it that way.

BY HIS LORDSHIP: Q--You say between fifty and sixty thousand. That seems pretty low to me for fourteen apartments? A--That is the two buildings. Actually, you have to take into consideration that in placing a value on a building like that, that that building has been there for a great many years, and there must be some depreciation allowance made.

20 Q--That does not come into the replacement cost? A--It is the replacement of the building as it is at that moment, sir, and not as it cost originally, or as it would cost - if a roof has been on for twenty years, it is certainly not as good as though it were put on new.

Q--Mr. Gibson was asking the question which indicated changes, as I understand it - that it was going to be built and replaced - you are talking about replacement as it is - A--Yes, as it is at a given moment.

30 BY MR. GIBSON: Q--You would not have the same plumbing; you would put in a better type of plumbing, is that right? A--I do not understand what you are driving at.

Q--Would your upkeep cost be the same now? A--No, when a building has been reconverted, there are always things happen that would not have happened in a new building, because you try to hold your costs down as much as possible, and you leave as much of the original lines and things in the building, as they were, and still get the best use out of it.

Q--And if you were building a new building, you would not construct it in the same manner? A--That is right.

40 Q--And there are certain features about it in which you may incur heavier costs than in a new building, is that right? A--I think so, yes.

Q--What sort of value are you giving us; when you say fifty to sixty thousand, what are you putting the value at?

A--I was considering there the replacement value; if I were valuing that property for mortgage purposes, I do not think I would put it quite as high.

L. Wheeler, dir-ex, Defendant

Q--And if you were valuing it for assessment purposes?  
A--Well, for those purposes, I would say forty-five to fifty thousand would be as high as I would care to go. I have been doing valuing for the Confederation Life on mortgages this last year or more, and I know if they asked me for a valuation on it, I could not conscientiously go higher than fifty thousand.

Q--And if you were asked as an accountant to put the value on it, you would add up every dollar that went into it?

10 A--That is a different matter.

Q--There are many valuations that you could use; is that right? A--That is right.

Q--It all depends on the purpose for which you want - you can only talk about one? A--That is right.

BY HIS LORDSHIP: Q--There is a great scarcity of apartments at the present time; do you know that? A--Very much so.

Q--You have heard about rent ceilings keeping rents down?  
A--Yes.

Q--But some day rent ceilings may be removed.

20 MR. GIBSON: All right, thank you.

CROSS-EXAMINATION

BY MR. SMITH: Q--How much money has been spent on that building in the past seven years? A--In the past seven years?

HIS LORDSHIP: These two buildings?

MR. SMITH: Yes, the Glover apartments - the two buildings what used to be the house and the McRae building? A--I do not think I have the information necessary to answer that question.

30 Q--Could you give me any idea at all? You have told the Court you have always done the estimating? A--Yes. After the fire - I think that was in 1942 - I made a rough estimate then of the cost of replacement, and I remember at the time -

Q--What was your estimate in 1942? A--It was somewhere in the neighbourhood of eight thousand.

Q--Do you know what the work was actually done for?  
A--No, I do not.

Q--Would you be surprised if I told you there had been over seventeen thousand dollars spent on that building in the last seven years? A--No, I would not be surprised at that at all.

40 Q--That is quite a bit of money, isn't it? A--I grant you that.

Q--And where the fire took place, that is all new work and replaced by new materials? A--Yes.

Q--And that is just how long ago? A--Four or five years ago.

Q--And not only that, but where those apartments were subdivided and made into smaller ones, they have been all rehabilitated and fixed up? A--Yes.

Q--So today that is a pretty valuable apartment, and yielding how much per month? A--I know the yield is high -

L. Wheeler, cross-ex, Defendant

Q--How much per month does it yield? A--At the present time?

Q--Yes. A--Well, listening to the figures given in court here, I heard it was eight thousand or thereabouts.

Q--When you made the valuation, you did not even know the rental income? A--I knew the rental income over a ten-year period, and if my recollection is correct on that, that income over the ten-year period was in the neighbourhood of four thousand to forty-five hundred a year. I am speaking from memory. It is some time ago since I looked at that. Actually, the original estimate was made from the rental income alone.

Q--Was it made with any regard for the rental income? A--It was made with regard to the rental income, yes.

Q--On what basis; what is the basis? A--Knowing the property as well as I did, I knew that that property was never rented entirely -

Q--What was the basis? A--The basis was -

Q--On which you made the assessment or appraisal or valuation? A--The appraisal was made on the basis of thirty cents a cubic foot.

Q--Are you trying to tell me you can build for thirty cents a cubic foot? A--Not today.

BY HIS LORDSHIP: Q--Take in 1944? A--Of course, this is after allowing for depreciation. Your costs in 1944 were around thirty-six cents a cubic foot.

BY MR. SMITH: Q--Thirty-six cents a cubic foot? A--That is covering fifteen percent depreciation.

Q--So the actual cost of replacing the building would be six-fifths of sixty thousand dollars; is that right? A--Yes.

Q--It would be six-fifths of that, or over seven thousand dollars? A--Yes, I said fifty to sixty.

Q--Well, say, then, sixty to seventy. How much is the land worth? A--The land value there, I would say that that would be approximately two thousand to three thousand dollars, for that land - not today- you are going back a few years.

Q--We are going back to the summer of 1944. A--And in putting an appraisal on a property -

Q--Have you ever bought any land in this City? A--Yes, I have.

Q--Where? A--I bought land on Frontenac Street, and on Johnson Street, and on Brock Street.

Q--Have you ever bought any land around that corner? A--No, not around that corner.

Q--Have you ever bought any land anywhere near Princess Street? A--No.

Q--Do you - you do not know anything about the value of land down town in this city, do you, to be honest? A--I know something about it, yes.

L. Wheeler, cross-ex, Defendant

Q--From hearsay, or from experience? A--From hearsay.

BY HIS LORDSHIP: Q--You say you have been valuing land for mortgage purposes? A--Yes.

Q--And I suppose there is not much question about them being able to find out what land values are, but your chief interest is in the building? A--Yes, and then they would request the sales of land in the vicinity, and what they want for it, to judge what any particular property would be worth.

10 BY MR. SMITH: Q--If I told you the valuator for the Confederation Life Association is John Alfred Compton, what will you tell me? A--I will tell you that John Alfred Compton does valuate for the Confederation Life, and I will also tell you that he - that I have been assisting him. It is approximately six or seven months ago that I did the first valuation for them, and previous to that I had done a number of valuations for Mr. Compton at his own request.

20 Q--And what would you value a six-roomed house being built to day, we will say, about 22 by 30, with hot water system; what would you value that at? A--It would be valued at the rate of forty-two cents a cubic foot.

Q--Has this building got hot water heating? A--It has - but that is a little different building.

Q--All right, thank you.

The witness retires.

HIS LORDSHIP: Next witness.

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FRANCIS GEORGE EDWARDS, a witness being called and duly sworn, testifies as follows:

30 DIRECT-EXAMINATION BY MR. GIBSON:

OF COUNSEL FOR THE DEFENDANT:

Q--Mr. Edwards, what business are you in? A--The building.

Q--Building? A--And general repairs and remodelling.

Q--Did you ever do any work on the apartment buildings at 170-174 Earl? A--Yes.

Q--What have you done? A--I checked over notes yesterday to make sure that my time would be correct. I am giving the dates that I received the cheques from Doctor Glover, so that the work would be started before that time.

40 Q--All right. A--In December 23rd, 1941 -

Q--Was that the first time you worked for Doctor Glover? A--That is the first cheque I received from the apartment.

Q--When was the first time you worked for him? A--In 1941.

Q--Did you ever work for Albert Glover? A--Not for any amount. We never arranged any amount, to keep the books -

Q--What do you do? A--Well, I am the only man in the firm, but I have men working with me.

Q--Are you a contractor? A--Yes.

Q--And you hire other men? A--Yes, I hire other men -

F. Edwards, direex, Defendant

Q--Now, what work have you done? A--Well, this time we started in December, 1941, we connected both buildings together. That is, at Earl and Sydenham, and then replaced roofs, and took over the fire job, and repaired all that in proper shape, and general repairs throughout the building.

10 Q--What are the general repairs? A--Such as stair work, and putting up partitions, and remodelling the apartments. That carries on down through, with a short time skipped, until 1945, October 3rd.

Q--During that period did you have anything to do with Albert Glover? A--Albert Glover was the man who gave me instructions how to carry on.

Q--And did he know how to tell you to do things? A--Yes, Albert Glover was very alert and that. He understood the remodelling.

20 Q--What work did he do? A--He went around and showed me where he would like to have these rooms cut off, and how he wanted it repaired, and how he wanted the roof put up. He understood building very thoroughly.

Q--Did he do this during 1941 and 1942? A--Yes.

Q--And what about 1943? A--All through.

Q--1944? A--All through. Till the last job we done, Albert Glover was right on the job and gave us authority what to do, and understood the work.

BY HIS LORDSHIP: Q--When was the last job you did? A--The last job shows October 3rd, 1945.

30 BY MR. GIBSON: Q--Where would you be working on that job? A--Well, we were some of that time on the Robertson house, some on what is known as the garage, making that into a house.

Q--Would that be the stables? A--Yes, and in between those times, we would have to go back over to the apartment on Earl Street.

Q--During this period who would tell you what to do? A--Albert Glover.

Q--Did Doctor Glover ever give you any orders? A--No, Doctor Glover never gave us any orders, only that he would pay the cheques, pay the money.

Q--And did that refer to the work at the Robertson house? A--All through.

40 Q--Well, what do you mean by all through? A--Well, all through these jobs we had anything to do with.

Q--That is both apartments? A--Both apartments and the stables.

Q--Did you receive the money from him? A--Oh, yes, from Doctor Glover.

Q--From Doctor Glover? A--From Doctor Glover.

Q--That is all.

CROSS-EXAMINATION

F. Edwards, cross-ex, Defendant

BY MR. SMITH: Q--Mr. Edwards, how long was Albert Glover working at the Robertson house? A--We were there in the neighbourhood of three months on the Robertson house, that is, on the Robertson house itself - and Albert worked right along - laid out stuff and over-saw the job.

10 Q--He was the architect? A--The man knew what he wanted, and I tried to give it to him. I suggested any time for any changes, because I have a knowledge for remodelling better than any other man in this town, my Lord. I have been over forty years in this game.

Q--How long was Mr. Glover there, as far as you know?

A--Every day. I do not think he ever missed a day.

Q--For the whole year? A--Well, we were not always there for the whole year.

Q--How long did it take to remodel the coach house?

A--I am not sure of that - I would say somewhere about two months' time.

20 Q--What would Albert's services be worth, in your opinion, per month? A--Well, he was just seeing - we were trying to please him because he understood the game -

Q--If you can tell us, what would you think his services were worth per month? A--Well, to be honest about it, I would not pay him anything.

Q--But he was doing the general supervising, wasn't he?

A--No, I had a general foreman on the job besides him.

30 Q--And he laid out the building, and he spent his time there and worked there? A--No, I would not say that he laid out anything. Where we would put in a partition, I would suggest how to do it.

BY HIS LORDSHIP: Q--Why did you say you would not hire him? A--Well, I could not pay a man with the knowledge that he would give me -

Q--He is a stone mason, and I understand stone masons are worth something? A--Not on the job there, because we did not use stone masons.

Q--On any job, what was the man worth to you -

40 BY MR. SMITH: Q--What is your own time worth; you are a carpenter? A--I could not place any, because I would not have the man on the job, because he would hold up the other men.

Q--What is your own time worth? A--\$1.25 an hour.

Q--Is that all you charge? A--That is for my time.

Q--What else do you charge when you do a contract?

A--On top of the men, I get ten percent of the wages.

Q--And the material? A--Nothing, if I don't supply it.

Q--And if you do supply it - A--Ten percent.

Q--So you get an overriding rate of ten percent? A--Yes.

Q--In addition to the \$1.25 an hour? A--Yes.



F. Edwards, cross-ex, Defendant

Q--In this case you were in close contact with Albert Glover all the time? A--Yes.

Q--And he was always working and always on the job; is that right? A--Yes.

Q--Did you ever talk about what interest he had in the apartment or the Robertson house? A--I did not know anything about that.

Q--He gave you your orders? A--Yes.

10 Q--He was the man you looked to for your orders? A--He gave the orders, when he wanted a thing done over, and my advice was asked before they went ahead with it.

Q--But Albert Glover was the man you dealt with? A--Yes.

Q--He was the boss? A--He was the boss.

Q--All right.

The witness retires.

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JOHN LORNE McDOUGALL, a witness being called and duly sworn, testifies as follows:

20 DIRECT-EXAMINATION BY MR. GIBSON,

OF COUNSEL FOR THE DEFENDANT:

Q--Now, Mr. McDougall, would you give the Court a brief outline of your academic qualifications? A--Well, I am a graduate of the University of Toronto, and also I took the M.A. there, and I studied also -

30 Q--In what branch? A--In economics, and I studied also at the London School of Economics, and graduated from the School of Arts and Science at Harvard University. I taught in economics at the University of Texas, and the University of Toronto, and I then spent about five years as chief statistician of the Canadian General Securities in Toronto, doing investment analyses.

Q--Just what do you mean by investment analyses? A--The study of securities and their value, and advised upon investment policy, and the placing of funds. Thereafter, I did some consulting work, and came in 1932 to Queen's University, and have been there since.

Q--And what do you do at Queen's University? A--My lecture courses have included since I arrived those of corporation finance and investment finance, and statistics, as well as other matters.

40 Q--You also carry on other work? A--I have a small consulting practice, yes.

Q--Could you tell the Court a few of the cases you have been on? A--Well, I was on the valuation of the Niagara Falls Park and River Railway in 1935, giving testimony as to the cost and current value. I have also made studies of the Canadian coal industry for the Canadian Coal Operators' Association. I have made certain studies for the Department of Labour on wage differentials, and I have also been retained by the Northwest Line Elevators Association upon the taxation of cooperatives, and by

J. McDougall, dir-ex, Defendant

A--the Income Taxpayers Association of Canada upon the income and corporation tax generally.

Q--That is a matter which has received recent publicity?

A--Yes.

10 Q--Will you tell the Court or just say a word about various types of values or costs? A--Well, there are various ways of stating value, that is, there is the historical record of what was actually spent. There might be the engineering statement of what it would cost to reproduce, or a revised statement, that is, a cost of re-  
production less a provision for accrued depreciation to date, or there would be the economic statement, which would be the valuation of the capacity to produce an income, and that, I think, is the value which is applicable in this particular case, because one has an established structure, and its value to the owner is the income which it can produce and that only.

Q--You have seen a statement prepared by John Partridge, chartered accountant? A--Yes.

20 Q--And you have had a copy of it. I show you the one that has been introduced as an exhibit. A--Yes, it is the same one that I have here.

Q--You also have a statement of the rents which have been received, or which are received now from the apartments? A--Yes.

30 Q--Would you tell the Court what compilations you have made, based on the information which has been supplied you, with regard to this particular apartment? A--Well, I took the gross revenues, with one hundred per cent occupational, as an amount of \$9,830, and I classified the expenses which would be incurred in two groups. There are those which are substantially beyond control, and there are those which might be varied within a minor degree. In the first group come, first of all, the taxes, heat, light, and water, and insurance, and I took the five-year average - 1939 to 1943 - that is inclusive - that is the five calendar years - the taxes in that period averaged \$1186.56; heat, light, and water, \$1444.31; and insurance, a period in only four of those five years, and the amount seems so small that it would seem proper to take the four-year average rather than five - \$64.14. That is a total of \$2695 of total uncontrollable expenses, leaving a balance of \$7135, which would cover all other items, namely, repairs and re-  
40 placements, janitor service, business management, vacancy costs, depreciation and obsolescence, and possible earnings upon the investment - an amount of \$7135. From that, there are the costs which are not covered above. First of all, janitor service of eighty dollars a month; second, repairs and replacements, and there, I took the average of the four years, 1939 to 1941, and 1943, omitting 1942, because it seems to me to be an excessive sum, and that average for that four years came to \$1551.02. Business management, \$1,200, and vacancy costs, which I estimated at not less than seven and half percent.

J. McDougall, dir-ex, Defendant

Q--What would that work out to? A--It would mean this-- that if in an attempt to keep fully occupied apartments, you could make a reduction in rental of \$4.40 per month per apartment, so that does not, - it is not, I think, an excessive allowance.

Q--If you compared it in regard to the apartments, what would it mean - the vacancies for the total apartment? A--It would mean less than one month - considerably less than one month per year for each apartment.

10 BY HIS LORDSHIP: Q--Would it be about five hundred dollars?

A--I allowed a total of \$738 for vacancies. Those costs came to \$4,449.02, leaving a balance to cover depreciation, obsolescence, earnings upon the investment of \$2,685.98. I think it proper to capitalize that gross sum as being logically a sounder approach rather than to attempt to take depreciation and obsolescence from that, that is, to take a sum which would be large enough to allow for the accumulation of the depreciation and obsolescence reserve. If it is capitalized at seven and a half percent, there is a value there of \$35,810. If it is capitalized at ten percent, \$26,860.

20 Of the two rates, I should lean closer to the ten percent than to the seven and a half percent, but I admit it is a range of value, and not an absolute figure.

Now then, that is a normal value, but it seems to me that there might be premium to compensate for the unusually low risk of vacancies at the moment, that is, that there are things that can be done in a market such as at the present time which are distinctly not normal, that is, you will have fewer vacancies. You will be able to possibly pay less in the way of printing and that kind of thing - you won't have the same pressure to get people to pay your rents, so you may be able to save some on that element of business management, and for that present premium - this is to have the value as at the beginning of 1937, I would allow an amount between \$7,500 and \$10,000, but that is very distinctly a short-run thing, and its effect would run off inside five years, so there would be that.

30 BY MR. GIBSON: Q--What would the range be then? A--For present value, between an outside limit of 45, substantially, and a lower limit of \$34,360.

Q--That would be the range which would allow this -  
40 A--All elements of value - for all elements of value, including the special condition of house rentals at the time, and for the next five years. That value, I think, is a higher value than I would have found as at 1944.

Q--Do you know these apartments? A--Yes.

Q--You have been in them? A--Yes.

Q--What range - what length of period have you capitalized them over? A--Well, that is in perpetuity.

J. McDougall, dir-ex, Defendant

Q--That is in perpetuity? A--Yes, because out of that total sum, you are going to create a reserve for life, which would allow you to have your capital maintained after the building is gone.

10 Q--Does that take into account the land on which the apartments are built? A--That is a total value on the basis of the property as it exists, and since I estimate that the building will have probably a useful life of twenty-five to thirty years, the discounted value of the land twenty-five to thirty years hence is so small as not to matter.

Q--All right.

CROSS-EXAMINATION

BY MR. SMITH: Q--You do not take any contracts for building, by any chance, do you? A--I am not valuing new construction.

Q--You are not a building contractor? A--No, by no means.

Q--Have you ever done any building? A--I own and manage houses, yes, and I have done repairs, yes.

20 Q--Have you ever valued for purposes of sale any buildings? A--Not professionally, no. I have valued my own properties with a view to sale, yes.

Q--Take you own house; how much would you take for it today?

HIS LORDSHIP: Perhaps that is getting personal -

THE WITNESS: You have a distinction - a single residence is a manageable investment, where an apartment block is not. There are many bidders against a single house, and many people who will buy a single house in order to get shelter and pay a premium for shelter, where nothing of that kind is possible here.

30 Q--In that five-year period - just to go back to your statement - in that five-year period, that is 1939 to 1943 - what apartments were vacant? A--That I do not know, but you will understand that the compilation was made, starting from complete occupancy.

Q--Well, it is all theoretical? A--Any value which attempts to be a valuation of earning power must be theoretical, must it not?

Q--And this is all straight theory? A--But everybody who makes investments is equally theoretical.

Q--Well, everything is theoretical? A--Well, -

40 Q--Do you know anything about the values of land at the corner of Earl and West Streets? A--No, I have not inquired.

Q--You do not know? A--No.

Q--Have you any knowledge of the replacement cost of those two buildings at Earl and Clergy? A--I would be interested in replacement cost not as much but only as telling me something about the probable rate of repairs in the useful period.

Q--Have you any actual knowledge of what it would cost to replace those buildings? A--No, and I do not think it is important.

50 Q--You do not think it is important? A--No, because this is capital, and you have not any chance to re-combine your elements. You have to take what income you can get upon it, in its present form.

Q--You are not interested in the place from the buyer's standpoint? A--From the buyer's point of view, there is no factor of importance except income and cost.

J. McDougall, cross-ex, Defendant

BY HIS LORDSHIP: Q--The last witness gave us a replacement price? A--Well, anybody who bought on a replacement value should have his head read. I do not think it matters.

Q--All right.

The witness retires.

10 MR. GIBSON: My Lord, I wanted to put in the assessment of this property for tax purposes, and my friend will not admit it without calling the assessor. I wonder if I might have an adjournment to get him here.

HIS LORDSHIP: Is he your last witness?

MR. GIBSON: Yes, my Lord.

HIS LORDSHIP: How long will it take him to get here? I do not want to wait for any assessor, if he is going to be very long.

MR. GIBSON: Well, I cannot tell you -

20 HIS LORDSHIP: You can find out how soon he will be. If it is not imposing too much upon counsel and in view of other matters that are coming before me this afternoon, perhaps I might make an exception in this case and have written argument.

MR. GIBSON: I cannot get the assessor here before one o'clock, my Lord.

30 HIS LORDSHIP: He should have been subpoenaed and been here this morning if you were relying on him. The courts simply cannot allow themselves to await the convenience of all manners of people who are no doubt busy but they are no busier today than are the judges of the Supreme Court. I will make an exception in these circumstances. I will allow you to call this man at 2.30 o'clock, if he is here. As soon as I have finished sentencing the two men I have to sentence at 2.30, then I will hear your assessor if he is here. While you were absent, we discussed written argument, Mr. Gibson, and while Mr. Smith is not anxious to have the matter dealt with in that way, in view of the fact that I have to leave tonight, and still have some more work to do, I presume you are agreeable to that, too.

MR. GIBSON: Yes, my Lord.

40 HIS LORDSHIP: Then we can say some more about that after I have heard this last witness of yours. I understand it is your last witness?

MR. GIBSON: Yes.

HIS LORDSHIP: Have you any reply?

MR. SMITH: I may have a reply, my Lord. It will be very short.

HIS LORDSHIP: Perhaps you can go on with your reply now, subject to Mr. Gibson's right to call the assessor. That should not embarrass you, should it?

MR. SMITH: Well, my Lord, my reply is chiefly in the nature of valuation, and I do not know that that is terrifically important.

HIS LORDSHIP: I do not want to stop you. If you want to reply as to valuation, is there any reason why you cannot reply now, or are you waiving reply?

MR. SMITH: I think I will waive reply.

10 HIS LORDSHIP: Very well, and, of course, if you think it is necessary after hearing the assessor, you, of course, may do so.

MR. SMITH: All right, my Lord.

HIS LORDSHIP: Very well, I will adjourn until 2.30.

(Whereupon the further proceedings were adjourned at 12.45 P.M., to resume at 2.30 o'clock P.M.)

(On resuming at 2.30 o'clock, P.M.)

HIS LORDSHIP: Now, Mr. Gibson.

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WILLIAM DUNLOP DICK, a witness being called and duly sworn, testifies as follows:

20 DIRECT-EXAMINATION BY MR. GIBSON,  
OF COUNSEL FOR THE DEFENDANT:

Q--Mr. Dick, you are the assessor for the City of Kingston?  
A--Yes, sir.

Q--And were you in 1944? A--Yes, sir.

Q--And did you make an assessment of 174 Earl Street and 170 to 172? A--Yes, sir.

Q--And is it a correct assessment? A--Yes, sir.

30 Q--What is it? A--174 Earl Street - do you want it separately - land and building?

Q--No, just the total. A--\$23,480.

Q--That is 174? A--174 Earl Street, and 172 and 170 Earl Street - it is \$10,060.

BY HIS LORDSHIP: Q--That is the total of land and building? A--Yes, land and building.

Q--How much did you assess the lands for? A--170 and 172 Earl, the lands are \$1,645, and \$3,580 for 174 Earl.

MR. GIBSON: Thank you, Mr. Dick.

#### CROSS-EXAMINATION

40 BY MR. SMITH: Q--Mr. Dick, what is the basis of your assessment? A--In what way do you mean, Mr. Smith?

Q--What do you base it on? Do you base it on some standard? A--Well, we classify buildings on a square foot basis.

Q--On a square foot basis? A--Yes.

Q--For brick buildings, how much do you charge per square foot? A--Well, I have not that information with me. It varies according to the number of stories, and the type -

Q--You take on a square foot basis? A--Yes.

W. Dick, cross-ex, Defendant

Q--For the ground floor, and then multiply it for the number of stories? A--Yes.

Q--Can you tell me if the garages are included in that? A--They are included in 174.

Q--They are included in 174? A--Yes.

Q--You get returns, do you not, on sales of land from the Registry office? A--Yes.

10 Q--Just to get an idea of what property was selling for at that time, what proportion would you say that the assessment is of the market value of the property? A--Well, I could not make a statement on that, because it varies so much.

Q--Might it be about a third? A--It might be and it might not.

Q--It might be less than a third? A--I could not make a statement on that.

Q--All you can say is that that is the assessment? A--That is my assessment value.

20 Q--And that basis is of years' standing, is it not - the basis was fixed years ago? A--That assessment was made in 1937, and in 1938 was when we made the change over to that system.

Q--And do you know how many years the assessment has remained the same? A--No, not offhand.

Q--You do not know what it was prior to 1938? A--No.

Q--You would not disagree with me, that the assessment is roughly about a third of the value of the property. A--Well, I do not care to make any statement, Mr. Smith, they vary so much.

Q--Would you disagree with me, Mr. Dick? A--No, I would not disagree with you.

30 Q--All right, thank you.

MR. GIBSON: Just one question - is there any relation between the sales value and the assessed value, as far as you are concerned? A--Not from our angle, no.

Q--All right, thank you.

HIS LORDSHIP: Does that complete the evidence?

MR. GIBSON: Yes, my Lord.

HIS LORDSHIP: I understood this morning, there is no reply?

40 MR. SMITH: Well, I just want to call Mr. Austin for one minute.

HIS LORDSHIP: Very well.

-----

R E P L Y

REUBEN JOHN AUSTIN, a witness having previously been sworn and given evidence, is now recalled,

BY MR. SMITH: Q--Mr. Austin, can you give me an idea, with your knowledge of building, about what proportion of the value of the building, that is, the market value, the assessment is?

R. Austin, recalled, Plaintiff

A--Well, those figures vary a great deal. Here is a property that I valued just recently for the Trust and Loan Company, 196 Union. This house sold for fourteen thousand, and it was assessed for \$3,350. That includes the land and the building assessment.

Q--You remodelled some houses on Alfred Street; what numbers were they? A--151 and 153.

Q--That was about 1944 or 1945, wasn't it? A--I started 10 in 1944 and finished in 1945. That is two houses - that pair I made into apartments for the Government - \$9,765.

Q--What is that? A--That is what they are assessed for, for the pair.

Q--What is the actual cost for reconversion? A--That is, for Alfred Street?

Q--Yes. A--The actual cost of reconversion was \$16,780.47.

Q--Yes? A--Six apartments.

Q--Yes, and how much was the property worth, in your opinion, before the reconversion? A--Well, Mrs. Smith owned that, and it was 20 sold for seventeen thousand.

Q--Well, the value would be the seventeen thousand plus the cost of reconversion? A--Yes.

Q--And the assessment, you say, was \$9,765? A--Yes.

Q--All right, thank you.

MR. GIBSON: No questions.

HIS LORDSHIP: Then your written arguments should be in, gentlemen, within a reasonable length of time. What date do you suggest? Could counsel have their arguments in in the course of the next two weeks?

30 MR. SMITH: Yes, my Lord.

MR. GIBSON: Very well, my Lord. What order should they go in?

HIS LORDSHIP: You should both submit your written arguments to me, sending a copy to the counsel on the other side, and then each counsel shall have the right to send in within the further period of a week a reply to the other counsel's submissions. Be sure that the copy that is served on the opposite counsel is acknowledged, so I will know the dates you have your respective arguments in your hand, and then I will know the governing date for 40 the reply.

(Whereupon judgment was reserved)

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PART - III

- EXHIBITS -

IN THE SUPREME COURT OF ONTARIO  
 GLOVER VS. GLOVER  
 THIS EXHIBIT, the property of  
 P., is produced by the P., this  
 19th day of February, 1947.  
 "C. H. WOOD"  
 Clerk of Assize.

No. 0.

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC

#2155

ABSTRACT OF TITLE to Part Farm Lot Twenty-Five (25) as described in Instrument 61005.

I hereby certify the following to be correct extracts beginning with Instrument 20512.

DATED at Kingston, this Ninth day of December, A.D. 1946 at the hour of 2:45 o'clock P.M.

This Abstract does not purport to give entries from the General Register, Bankruptcy Books and Instruments Red Lined.

W. J. Gibson, Registrar.

Number of Instrument	Instrument	Date of Instrument	Date of Registration	GRANTORS	GRANTEES	Quantity of Land	REMARKS
22-20512	Certificate of Vesting Order	July 25-1907	July 31-1907	Allan H. S. McRae, Plaintiff	W.D. McRae, D.H. McRae, N.J. Fraser, C.V. Price, Jessie McRae, Ernest J.B. McRae, Robert W.R. McRae, Margaret Fraser, and VS. Wm. Ross McRae, Florence McRae, Oliver I. McRae, Norman Fraser, Ross McRae, Jessie McRae & Muriel A. McRae, Infants, Defendants.	Pt. Farm Lot 25 foly. Grammar School Grounds, between Clergy, Earl & West Sts., bounded on South by wall of Frontenac Gaol.	Vested in <u>Albert Glover</u>  ALL estate of Plaintiff & Defendants.
47-42280	Mortge.	July 21-1926	July 27-1926	Albert Glover et ux	Not recorded in full. The London Life Insurance Company.	Pt. Farm Lot 25, foly. Grammar School Grounds, between Clergy, Earl & West Sts. 69'4" on s/s Clergy St.	Consideration \$25,000.00
48-44453	Mortge.	Jany. 1-1927	Aug. 23-1928	Albert Glover et ux	Not recorded in full. William R. Glover.	Do	Release #47142 Consideration \$25,000.00 subject to mtge.

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC

(continued)

<u>Number of Instrument</u>	<u>Instrument</u>	<u>Date of Instrument</u>	<u>Date of Registration</u>	<u>GRANTORS</u>	<u>GRANTEES</u>	<u>Quantity of Land</u>	<u>Remarks</u>
50-47141	Mortge.	July 1-1931	July 15-1931	Albert Glover et ux	Not recorded in full William R. Glover & Robert J. Glover.	Pt. Farm Lot 25, foly. Grammar School Grounds, between Clergy, Earl & West Sts. 69'4" on s/s Clergy St.	<u>Consideration</u> \$34,500.00 Release No. 51942
50-47142	Rel. Mtge.	July 1931	July 15-1931	William R. Glover	Albert Glover	Do	<u>Consideration</u> <del>44452</del>
51-49629	Assgt. Mtge.	Apr. 15-1935	Apr. 30-1935	Robert John Glover	Not recorded in full Wm. Ryerson Glover	All int. in Pt. Farm Lot 25, between Clergy, Earl & West Sts. 69'4" on s/s Clergy St.	<u>Consideration</u> \$10.00 &c.
53-51941	Mortge.	July 11-1938	July 11-1938	Albert Glover et ux	Not recorded in full William R. Glover	Pt. Farm Lot 25 between Clergy, Earl & West Sts. 69'4" on s/s Clergy St.	<u>Consideration</u> \$15,000.00 subject to mortgage.
53-51942	Rel. Mtge.	July 11-1938	July 11-1938	William R. Glover & Robert J. Glover	Albert Glover	Do	<u>Consideration</u> <del>47141</del>
60-61005	Quit Claim Deed	July 29-1944	Jan. 19-1946	Albert Glover et ux	William R. Glover	Do	\$ 1.00
						( \$2.45 ) ( C. M. SMITH )	

IN THE SUPREME COURT OF ONTARIO  
GLOVER vs. GLOVER

THIS EXHIBIT, the property of  
D., is produced by the D., this  
19th day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

THIS INDENTURE made in duplicate the Ninth day of April  
one thousand nine hundred and thirteen.

10 In Pursuance of The Short Forms of Conveyances Act.

BETWEEN:

ALBERT GLOVER, of the City of Kingston, in the County  
of Frontenac, Grocer, hereinafter called the Grantor

OF THE FIRST PART:

EVELYN GLOVER, his wife

OF THE SECOND PART:

-AND-

LETITIA WALKER, of the City of Kingston, in the County  
of Frontenac, wife of Herbert L. Walker, Trade Instructor  
and the said Herbert L. Walker, hereinafter called the  
Grantees

20

OF THE THIRD PART.

WITNESSETH that in consideration of the sum of Three  
Thousand Dollars of lawful money of Canada, now paid by the said  
Grantee to the said Grantor the receipt whereof is hereby by him  
acknowledged, he the said Grantor Doth Grant unto the said Grantee  
in fee simple.

30

ALL AND SINGULAR those certain parcels or tracts of land  
and premises situate, lying and being in the City of Kingston, in  
the County of Frontenac, containing by admeasurement Five and Two  
tenths square perches (exclusive of the right of way hereinafter  
mentioned) be the same more or less; being composed of part of  
Park Lot Number Two in the City of Kingston, being called, known  
and described as the middle part of Town Lot Number Eight Bagot  
Street in a certain plan of said Park Lot made by Thomas Fraser  
Gibb, P.L.S., for John Counter and dated 15th January, 1850 and  
23rd August, 1850, which said plan was filed on 30th August, 1850  
in the office of the Registrar of the County of Frontenac, and  
more particularly described as follows:-

COMMENCING on Bagot Street at the distance of thirty and five tenths links from the North East angle of Lot, and running North thirty-nine degrees and forty minutes West one chain and five and two tenths links to a point nine feet distant from the side line of Lot Number Nine, then South Westerly in a line parallel with the side of Lot Number Nine leaving a right of way nine feet in common to the North Easterly part of Lot thirty and five tenths links; then South thirty nine degrees and forty minutes East to Bagot Street one chain and one and eight tenths links; 10 then North fifty degrees and twenty minutes East along Bagot Street thirty and five tenths links to the place of beginning.

Together with the said right of way nine feet wide for all purposes as at present used and enjoyed.

Also that portion of the North East part of said Town Lot Eight now covered by the wall of the addition or kitchen built by one James Godfrey in rear of the dwelling house situate on the middle part of said Town Lot Number Eight; the said lands hereby conveyed or intended to be, being a part of the lands conveyed by Neil McNeil to one Edward Fahey, said portion being nineteen feet 20 seven inches in length with certain reservation as described in a certain deed from said Edward Fahey to said James Godfrey dated the 10th May, 1889.

COVENANTS.

And the said party of the second part hereby bars her dower in the said lands.

IN WITNESS WHEREOF, the said parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED in the presence of  
Vera B. Van Luven

30

Albert Glover L.S.  
Evelyn Glover L.S.

County of Frontenac, To Wit: I, Vera B. VanLuven of the City of Kingston in the County of Frontenac, Stenographer, make oath and say:

1. That I was personally present and did see the within Instrument and Duplicate thereof duly signed, sealed and executed by Albert Glover and Evelyn Glover two of the parties thereto.
2. That the said Instrument and Duplicate were executed by the said parties at the City of Kingston.
3. That I know the said parties.
- 40 4. That I am a subscribing witness to the said Instrument and Duplicate.

SWORN before me at the City of Kingston, in the County of Frontenac  
this 9th day of April in the year of Our Lord 1913.

J. L. Whiting

Vera B. VanLuven

A Commissioner, Etc.

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC.

I HEREBY CERTIFY that the above and attached one page  
of typewriting each initialled by me is a true copy of the  
instrument as registered in this office in Book 30 for the  
10 City of Kingston at 10.04 o'clock A.M. of the 22nd day of  
April, A.D. 1913, as Number 26610.

GIVEN under my hand and seal of office this 20th  
day of February, A.D. 1947.

"W. J. Gibson"

(S E A L)

Registrar of Deeds.

No. 26610

DATED April 1913

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GLOVER

-to-

WALKER

-----  
DEED OF LAND  
-----

I certify that the within  
Instrument is duly entered and  
registered in the Registry Office  
for the City of Kingston, in Book  
30 at 10.04 o'clock A.M. of the  
22nd day of April, A.D. 1913, as  
Number 2 6 6 1 0.

(Sgd.) J. P. Gildersleeve,  
Registrar.

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D., is produced by D., this 19th day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

THIS INDENTURE, made in duplicate the Twenty-First day of July, One Thousand Nine Hundred and Twenty-Six in Pursuance of the  
10 Short Forms of Mortgages Act:

BETWEEN:

ALBERT GLOVER, of the City of Kingston, in the County of Frontenac, Grocer,  
hereinafter called the "Mortgagor", OF THE FIRST PART:

THE LONDON LIFE INSURANCE COMPANY, hereinafter called the "Mortgagees", OF THE SECOND PART:

-AND-

EVELYN GLOVER, wife of the said Mortgagor, OF THE THIRD PART:

WITNESSETH, that in consideration of TWENTY-FIVE THOUSAND  
20 DOLLARS, of lawful money of Canada, now paid by said Mortgagees unto said Mortgagor (the receipt whereof is hereby acknowledged) the Mortgagor doth, as beneficial owner, grant, convey and mortgage unto the Mortgagees in fee simple, all that certain parcel or tract of land and premises, situate; lying and being in the City of Kingston in the County of Frontenac, containing acres more or less, being composed of part of Farm Lot Number Twenty-Five, formerly in the First Concession of the Township of Kingston but now in the City of Kingston, which part is composed of that part of what was formerly  
30 the Grammar School Grounds lying Between Clergy, Earl and West Streets, leased by the Trustees of the Kingston County Grammar School to one Samuel Woods by Indenture of a Lease dated 24th December 1870 and registered in the Registry Office for the City of Kingston on March 5th 1880 as Number 1509, which said parcel is more particularly described as follows:- COMMENCING at a point where the northern wall of the Frontenac County Gaol, or its production Easterly intersects the Westerly limit of West Street; thence Westerly along the said wall one hundred feet and six inches more or less to a line fence; thence Northerly along the said line fence and its production thereof to a point on the Southerly limit  
40 of Clergy Street distant sixty nine feet and four inches more or less from the Westerly limit of Earl Street; thence Easterly along the Southerly limit of Clergy Street to a point where the Southerly



limit of Clergy Street intersects the Westerly limit of Earl Street; thence Southerly along the Westerly limits of Earl and West Streets to the place of beginning.

AND the said wife of the said Mortgagor, hereby bars her dower in said lands.

PROVIDED, this mortgage to be void on payment, at the office of the Mortgagees, at London, in Ontario, of Twenty-Five Thousand Dollars of Gold Coin of Legal Tender in Canada, with interest at six and one-half percent per annum as follows:-  
10 Five Hundred Dollars of said principal sum to be paid on the twentieth day of the month of July, 1927. Four Thousand Dollars of said principal sum to be paid in eight equal consecutive half yearly payments of five hundred dollars each on the twentieth day of each of the months of January and July in each of the four years next after 1927. The balance of said principal sum to be paid on the twentieth day of the month of January, 1932.

And the interest at the said rate, likewise of gold coin, to be paid half yearly on the twentieth day of January and July in each year until such principal shall be paid. Together with any  
20 moneys paid by said Mortgagees for any taxes, charge, lien or encumbrance on any part of said lands or any insurance premium and all costs, charges and expenses which the Mortgagees may pay for valuation, solicitor's fees, inspection of said premises, protecting, repairing or improving the same, or taking, recovering and keeping possession of the said lands and keeping in force or realizing upon this or any collateral security and for any proceeding upon any of the covenants herein, or under any of the terms thereof; all which said amounts shall be, without demand thereof, payable forthwith with interest at said rate.

30 AND taxes and performance of statute labor and observance and performance of all covenants, provisoes, terms and conditions herein contained. Provided previous default has not been made the Mortgagor shall have the privilege of paying Five Hundred Dollars additional on account of said principal sum on the Twentieth day  
of each and every month of January and July, before January 1932.

The Mortgagor shall have the privilege of obtaining a discharge of the dwelling house property known as 170 Earl Street together with the necessary land in connection therewith, providing that at the time when the Mortgagor so requests such release there  
40 are no arrears of either principal or interest upon this mortgage or any arrears of taxes on any of the lands and provided further that at such time the principal sum secured by this mortgage has been reduced by not less than \$7500.00. If such reduction of principal has not been made the Mortgagor shall be entitled to a partial discharge subject to all the other conditions above mentioned and to the payment of such amount on account of principal as will make the total sum whereby the principal is reduced amount to the sum of \$7500.00 but the Mortgagor will require to pay a

bonus upon the pre-payment of such amount amounting to 3% thereof if paid before the Twentieth day of July, 1927; 2½% if paid thereafter and before the Twentieth day of July, 1928; 2% if paid thereafter and before the Twentieth day of July, 1929 and a sum equal to three months extra interest if paid at any time thereafter.

COVENANTS.

IN WITNESS WHEREOF said parties have hereunto set their hands and seals.

10	SIGNED, SEALED AND DELIVERED in the presence of	)	Albert Glover	L.S.
	(Having first been read over and explained)	)	Evelyn Glover	L.S.
	T. D. Slater	)		

CANADA, Province of Ontario, County of Frontenac	To Wit:	)	I, Thomas Douglas Slater, of the City of Kingston, in the County of Frontenac, Barrister,
		)	make oath and say:

- 20 1. That I was personally present and did see the within Instrument and a Duplicate duly signed, sealed and executed by Albert Glover and Evelyn Glover, two of the parties thereto.
- 2. That the said Instrument and Duplicate were executed by the said parties at the City of Kingston.
- 3. That I know the said parties and that they are over the full age of twenty-one years.
- 4. That I am a subscribing witness to the said Instrument and Duplicate.

30	SWORN before me at the City of Kingston in the County of Frontenac, this 23rd day of July in the year of Our Lord, 1926.	T. D. Slater
----	--	--------------

T. Mills

A Commissioner for taking affidavits, etc.

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC

I HEREBY CERTIFY that the above and attached four pages of typewriting, each initialled by me is a true copy of the Instrument as registered in this office in Book 47 for the City of Kingston at 2.55 o'clock P.M. of the 27th day of July, A.D. 1926, as Number 40 42280.

GIVEN under my hand and seal of office this 20th day of February, A.D. 1947.

"W. J. Gibson"

REGISTRAR OF DEEDS.

C E R T I F I E D    C O P Y  
C I T Y   O F   K I N G S T O N   N O .   4 2 2 8 0 .

M O R T G A G E

ALBERT GLOVER

T O

THE LONDON LIFE INSURANCE  
COMPANY

422 Wellington Street,  
LONDON, ONT.

---

N O T   T O   B E   R E C O R D E D   I N   F U L L

I certify that the within  
Instrument is duly Entered and Reg-  
istered in the Registry Office for  
the Registry Division of Kingston  
and Frontenac, in Book 47 for the  
City of Kingston at 2.55 o'clock  
P.M. of the 27th day of July, A.D.  
1926, Number 4 2 2 8 0.

(Sgd.) W. J. Gibson,  
Registrar.

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D., is produced by the D., this 19th day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

THIS INDENTURE made ( in duplicate) the Seventeenth day of March one thousand nine hundred and twenty-seven.

10 IN PURSUANCE OF THE SHORT FORMS OF MORTGAGES ACT.

BETWEEN:

ALBERT GLOVER, of the City of Kingston, in the County of Frontenac, Merchant, hereinafter called the Mortgagor of the First Part,

-AND- THE BROCKVILLE LOAN AND SAVINGS COMPANY, hereinafter called the Mortgagees of the Second Part,

-and- EVELYN GLOVER, the wife of the said Mortgagor of the Third Part.

20 WITNESSETH that in consideration of Four Thousand Dollars of lawful money of Canada now paid by the said Mortgagees to the said Mortgagor (the receipt whereof is hereby acknowledged) the said Mortgagor doth Grant and mortgage unto the said Mortgagees, their successors and assigns forever.

30 ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the said City of Kingston, containing seven and three-tenth square perches, more or less and being composed of the South Western part of Town Lot Number Eight on Bagot Street, as laid out on a plan of subdivision of Park Lot Number Two in the said City of Kingston, made by Thomas Fraser Gibbs, Deputy Provincial Land Surveyor, for one John Counter, and which said plan is dated the 15th January, 1850 and August 23rd, 1850, and was registered in the Registry Office for the City of Kingston on August 30th, 1850 and is now on file there in as B-27, and which said parcel is more particularly described as follows:-  
40 COMMENCING at the intersection of Bagot Street and Earl Street where a stone monument is planted and running North fifty degrees five minutes West along Earl Street one chain eighteen and eight-tenth links to a point fourteen and eight-tenth links, or nine feet on a perpendicular breadth distant from the side line of Lot Number Nine, the space between being left as a right of way in common for the middle and North Westerly and this South Westerly part of the Lot, then running North Easterly on a line parallel to

the side line of Lot Number Nine, fifty-seven and one-fifth links, then South thirty-nine degrees, forty minutes East one chain, one and four-fifth links to Bagot Street, then South fifty degrees and twenty minutes West thirty and one-half links to the place of beginning.

AND the said party of the Third Part, wife of the said Mortgagor, hereby bars her dower in the said lands.

PROVIDED this mortgage to be void on payment of Four Thousand Dollars of lawful money of Canada with interest at 6½% per annum as follows: One hundred dollars of the said principal sum to become due and payable on the Seventeenth days of March in each of the years 1928, 1929 and the balance on the Seventeenth day of March, 1930, and interest at the rate aforesaid half-yearly upon principal or interest on the Seventeenth days of March and September in each year until the principal be fully paid. The first payment of interest to be made on the Seventeenth day of September one thousand nine hundred and twenty-seven. Arrears of interest to bear interest at the rate above mentioned.

The said several payments of principal and interest to be made (in gold coin if demanded) at the office of the Company in Brockville and taxes and performance of Statute Labour, and observance and performance of all covenants, provisoes and conditions herein contained.

COVENANTS.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED (Having first been read over and explained) in the presence of

Gertrude Garrah Albert Glover L.S.

30 Evelyn Glover L.S.

COUNTY OF FRONTENAC ) I, Gertrude Garrah, of the City  
 ) of Kingston, in the County of  
To Wit: ) Frontenac, Stenographer, make oath  
 ) and say:

1. That I was personally present and did see the within Instrument and Duplicate thereof duly signed, sealed and executed by Albert Glover and Evelyn Glover, two of the parties thereto.

2. That the said Instrument and Duplicate were executed at the City of Kingston in the County of Frontenac by the said parties.

3. That I know the said parties.
4. That I am a subscribing witness to the said Instrument and Duplicate.

SWORN before me at the City of Kingston )  
in the County of Frontenac this 18th )  
day of March, A.D. 1927. ) Gertrude Garrah

Geo. H. Smythe

A Commissioner for taking affidavits in the High Court of Justice.

ONTARIO REGISTRY DIVISION OF KINGSTON  
AND FRONTENAC

10

I HEREBY CERTIFY that the above and attached three pages of typewriting each initialled by me is a true copy of the Instrument as registered in this office in Book 47 for the City of Kingston at 3.25 o'clock P.M. of the 18th day of March, A.D. 1927 as Number 42915.

GIVEN under my hand and seal of office this 20th day of February, 1947.

"W. J. Gibson"

REGISTRAR OF DEEDS.

CITY OF KINGSTON 42915

---

M O R T G A G E

FROM

ALBERT GLOVER

TO

THE BROCKVILLE LOAN AND SAVINGS  
COMPANY

Brockville, Ont.

---

NOT RECORDED IN FULL.

I certify that the within  
Instrument is duly entered and  
registered in the Registry Office  
for the Registry Division of the  
City of Kingston in Book 47 for  
the City of Kingston at 25 minutes  
past 3 o'clock in the afternoon  
of the 18th day of March, A.D.  
1927, as Number 42915.

(Sgd.) W. J. Gibson,  
Registrar.

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D.,  
is produced by the D., this 19th  
day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

THIS INDENTURE made (in duplicate) the First day of July  
one thousand nine hundred and Thirty-one (1931).

10 IN PURSUANCE OF THE SHORT FORMS OF MORTGAGES ACT

BETWEEN:

ALBERT GLOVER, of the City of Kingston, in  
the County of Frontenac, Grocer, hereinafter  
called the Mortgagor of the First Part.

WILLIAM R. GLOVER, of the said City of King-  
ston, Dentist and Robert J. Glover of the  
Village of Camden East, Esq.,  
Hereinafter called the Mortgagees of the  
Second Part.

20 EVELYN GLOVER, the wife of the said Mortgagor  
of the Third Part.

WHEREAS the said Mortgagor at the time of the execution  
hereof is seized of an estate in fee simple in possession of the  
lands hereinafter mentioned and has applied to the Mortgagee for  
a loan upon mortgage thereof.

30 NOW THEREFORE THIS INDENTURE WITNESSETH that in consider-  
ation of Thirty-Four Thousand Five Hundred (\$34,500.00) dollars  
of lawful money of Canada now paid by the said Mortgagee to the  
said Mortgagor (the receipt whereof is hereby acknowledged) the  
said Mortgagor doth grant and mortgage unto the said Mortgagees  
their heirs, executors, administrators, successors and assigns  
forever.

40 ALL AND SINGULAR that certain parcel or tract of land  
and premises situate lying and being in the City of Kingston, in  
the County of Frontenac and being composed of part of Farm Lot  
Number Twenty-Five (25) in the First Concession of the Township  
of Kingston formerly, now in the City of Kingston, and being  
that part of what was formerly known as the Grammar School grounds  
lying between Clergy, Earl and West Streets, leased by the Trustees  
of the Kingston County Grammar School to one Samuel Woods by  
Indenture of Lease, dated Dec. 24th 1870 and registered in the



Registry Office for the City of Kingston on March 5th 1880 as Number 1509 which land hereby conveyed may be further known and described as follows:

10 COMMENCING at a point where the Northern wall of the Frontenac County Gaol or its production Easterly intersects the Westerly limit of West Street; thence Westerly along said wall one hundred feet six inches (100'6") more or less, to a line fence; thence Northerly along said line fence and its production to a point in the Southerly limit of Clergy Street, distant sixty-  
nine feet four inches (69'4") more or less, from the Westerly limit of Earl Street; thence Easterly along said Southerly limit of Clergy Street to a point where said limit intersects the said Westerly limit of Earl Street; thence Southerly along the Westerly limits of Earl and Clergy Streets to the place of beginning.

AND the said wife of the said Mortgagor hereby bars her dower in the said lands.

20 PROVIDED this mortgage to be void upon payment of Thirty-Four Thousand Five Hundred (\$34,500.00) dollars in gold or its equivalent in lawful money of Canada with interest at Five (5%) per centum per annum as follows: \$500.00 of the said principal sum together with interest at five per centum per annum on the First days of January and July in each year (with the privilege of paying any further sum on account of principal at any time during the term of this mortgage without notice or bonus) and any balance of the said principal sum of \$34,500.00 shall become due and payable on the First day of July 1936 and interest half-yearly at the said rate as well after as before maturity and both before and after default on such portion of the principal as remains from time to time unpaid on the first days of January and  
30 July in each year until the principal is fully paid; the first payment of interest to be computed from the first day of July 1931 upon the whole amount of principal hereby secured, to become due and payable on the first day of January next 1932.

And Taxes and performance of Statute Labor; And observance and performance of all covenants provisoes and conditions herein contained.

COVENANTS.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

40 SIGNED, SEALED AND DELIVERED  
in the presence of

Name	B. E. Webster	Albert Glover	L.S.
Residence	Kingston, Ont.	Evelyn Glover	L.S.
Occupation			

COUNTY OF FRONTENAC: I, Benjamin Edward Webster, of the City of Kingston, in the County of Frontenac Esquire, make oath and say:

1. THAT I was personally present and did see the within or annexed Instrument and a duplicate thereof duly signed, sealed and executed by ALBERT GLOVER and EVELYN GLOVER two of the parties thereto.

2. THAT the said Instrument and duplicate were executed by the said parties at the City of Kingston.

10 3. THAT I know the said parties.

4. THAT I am a subscribing witness to the said Instrument and Duplicate.

SWORN before me at the City of Kingston )  
in the County of Frontenac this 15th )  
day of July A.D. 1931. ) B. E. Webster

S. Roughton  
A Commissioner for taking affidavits, &c.

ONTARIO REGISTRY DIVISION OF KINGSTON AND  
FRONTENAC

20 I HEREBY CERTIFY that the above and attached 5 pages of Typewriting each initialled by me is a true copy of the Instrument as registered in this office in Book 50 for the City of Kingston at 2.35 o'clock P.M. of the 15th day of July A. D. 1931 as Number 47141.

GIVEN under my hand and seal of office this 20th day of February, A.D. 1947.

"W. J. GIBSON"  
REGISTRAR OF DEEDS.

CITY OF KINGSTON 47141

DATED July 1st, 1931.

ALBERT GLOVER ET UX

-TO-

W. R. GLOVER AND R. J.  
GLOVER

-----  
M O R T G A G E  
-----

NOT RECORDED IN FULL

I hereby certify that the within Instrument is duly Entered and Registered in the Registry Office for the Registry Division of Kingston and Frontenac, in Book 50 for the City of Kingston at 2.35 o'clock P.M. of the 15th day of July, A.D. 1931, Number 4 7 1 4 1.

(Sgd.) W. J. Gibson,  
Registrar.

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D., is produced by the D., this 19th day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

THIS INDENTURE made (in duplicate) the eleventh day of July one thousand nine hundred and thirty-eight (1938) IN PURSUANCE OF THE SHORT FORMS OF MORTGAGES ACT.

BETWEEN:

ALBERT GLOVER, of the City of Kingston, in the County of Frontenac, Grocer, hereinafter called the Mortgagor

OF THE FIRST PART,

WILLIAM R. GLOVER, of the said City of Kingston, Dentist, hereinafter called the Mortgagee

OF THE SECOND PART,

AND EVELYN GLOVER, wife of the Mortgagor,

OF THE THIRD PART.

WITNESSETH that in consideration of the sum of Fifteen Thousand Dollars (\$15,000.00), of lawful money of Canada, now paid by the said Mortgagee to the said Mortgagor the receipt whereof is hereby acknowledged, the said Mortgagor doth grant and mortgage unto the said Mortgagee his heirs, executors, administrators and assigns forever;

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Kingston, in the County of Frontenac, and being composed of part of Farm Lot Number Twenty-Five (25) in the First Concession of the Township of Kingston formerly, now in the City of Kingston, and being that part of what was formerly known as the Grammar School Grounds, lying between Clergy, Earl and West Streets, leased by the Trustees of the Kingston County Grammar School to one Samuel Woods by Indenture of Lease, dated December 24th, 1870 and registered in the Registry Office for the City of Kingston on March 5th, 1880 as Number 1509, which land hereby conveyed may be more completely described as follows:

COMMENCING at a point where the Northern wall of the Frontenac County Gaol, or its production Easterly intersects the

Westerly limit of West Street; thence Westerly along said wall one hundred feet six inches (100'6") more or less to a line fence; thence Northerly along said line fence and its production to a point in the Southerly limit of Clergy Street, distant sixty-nine feet four inches (69'4") more or less from the Westerly limit of Earl Street; thence Easterly along said Southerly limit of Clergy Street to a point where said limit intersects the said Westerly limit of Earl Street; thence Southerly along the Westerly limit of Earl and Clergy Streets to the place of beginning.

10 AND the said wife of the said Mortgagor hereby bars her dower in the said lands.

PROVIDED this mortgage to be void on payment of the sum of Fifteen Thousand Dollars (\$15,000.00) of lawful money of Canada, with interest at five (5%) per cent per annum as follows: \$500.00 of the said principal sum with interest accrued on the first days of January and July in each of the years 1939, 1940, 1941, 1942 and \$500.00 and interest on the first day of January 1943 and any balance of the said sum on the first day of July, 1943. The first payment of interest to be computed from the first day of 20 July 1938 and be payable on the first day of January 1939; AND taxes and performance of Statute Labor.

COVENANTS.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED	)		
in the presence of	)		
	)	A. Glover	L.S.
Barbara Gordon	)	Evelyn Glover	L.S.

30 COUNTY OF FRONTENAC	)	I, Barbara Gordon, of the City of
TO WIT:	)	Kingston, in the County of Frontenac,
	)	Clerk, make oath and say:

1. THAT I was personally present and did see the within Instrument and duplicate thereof duly signed, sealed and executed by Albert Glover Evelyn Glover, the parties thereto.
2. THAT the said Instrument and Duplicate were executed by the said parties at the of
3. THAT I know the said part .
4. THAT I am a subscribing witness to the said Instrument and Duplicate.

SWORN before me at the City of )  
Kingston in the County of Frontenac )  
this 11th day of July in the year )  
of Our Lord 1938. )

Barbara Gordon

T. J. Glover

A Commissioner for taking affidavits, etc.

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC

- - - - -

I HEREBY CERTIFY that the above and attached two pages of  
10 typewriting, each initialled by me is a true copy of the Instru-  
ment as registered in this office in Book 53 for the City of  
Kingston at 11.39 o'clock A.M. of the 11th day of July A.D. 1938,  
as No. 51941.

GIVEN under my hand and seal of office this 20th day of  
February, A.D. 1947.

"W. J. Gibson"

REGISTRAR OF DEEDS.

C E R T I F I E D   C O P Y

CITY OF KINGSTON NO. 51941

ALBERT GLOVER ET UX

-TO-

WILLIAM R. GLOVER

264 King St.

-----  
M O R T G A G E  
-----

NOT TO BE RECORDED IN FULL

I hereby certify that the within  
Instrument is duly Entered and Registered  
in the Registry Office for the Registry  
Division of Kingston and Frontenac, in  
Book 53 for the City of Kingston at 11.39  
o'clock A.M. of the 11th day of July, A.D.  
1938, Number 5 1 9 4 1.

(Sgd.) W. J. Gibson,  
Registrar.

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D.,  
is produced by the D., this 19th  
day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

QUIT CLAIM DEED

THIS INDENTURE

10 made in duplicate the 29th day of July, one thousand nine hundred  
and forty-four.

BETWEEN ALBERT GLOVER of the City of Kingston  
in the County of Frontenac, Retired Grocer  
hereinafter called the Grantor

OF THE FIRST PART

and WILLIAM R. GLOVER of the City of Kingston  
in the County of Frontenac, Dentist  
hereinafter called the Grantee

OF THE SECOND PART

20 and EVELYN GLOVER  
Wife of the Grantor

OF THE THIRD PART

WITNESSETH that in consideration of .... One (\$1.00) .....  
dollars now paid by the Grantee to the Grantor (the receipt where-  
of is hereby by him acknowledged), he, the Grantor doth hereby  
grant, release and quit claim unto the Grantee his heirs and as-  
signs, all estate, right, title, interest, claim and demand what-  
soever, both at law and in equity or otherwise howsoever, and  
whether in possession or expectancy of the Grantor, of, in, to  
30 or out of all and singular that certain parcel or tract of land  
and premises situate, lying and being in the City of Kingston,  
in the County of Frontenac, and being composed of Part of Farm  
Lot No. 25 in the First Concession of the Township of Kingston  
formerly, now the said City of Kingston, and being that part of  
what was formerly known as the Grammar School grounds, lying  
between Clergy, Earl and West Streets, leased by the Trustees of  
the Kingston County Grammar School to one, Samuel Woods by In-  
denture of Lease, dated December 24th, 1870 and registered in  
the Registry Office for the City of Kingston on March 5th, 1880  
40 as No. 1509, which land hereby conveyed may be more completely



described as follows:

10 COMMENCING at a point where the Northern Wall of the Frontenac County Gaol, or its production Easterly intersects the Westerly limit of West Street; thence Westerly along said wall one hundred feet six inches (100' 6") more or less, to a line fence; thence Northerly along said line fence and its production to a point in the Southerly limit of Clergy Street distant sixty-nine feet four inches (69' 4") more or less from the Westerly limit of Earl Street; thence Easterly along said Southerly limit of Clergy Street to a point where said limit intersects the said Westerly limit of Earl Street; thence Southerly along the Westerly limit of Earl Street and Clergy Streets to the place of beginning.

TO HOLD the said lands unto and to the use of the Grantee his heirs and assigns forever.

AND the said EVELYN GLOVER, wife of the said Grantor hereby bars her dower in the said lands.

IN WITNESS WHEREOF the said parties hereunto set their hands and seals.

20 SIGNED, SEALED AND DELIVERED )  
 in the presence of ) "Albert Glover" Seal  
 "Helen Parent" ) "Evelyn Glover" Seal

AFFIDAVIT LAND TRANSFER TAX ACT

In the Matter of the Land Transfer Tax Act

Province of Ontario ) I, William R. Glover of the City of Kingston  
 County of ) in the County of Frontenac, Dentist  
 To wit: ) make oath and say:

1. I am the Grantee named in the within (or annexed) transfer.
2. I have a personal knowledge of the facts stated in this affidavit.
- 30 3. The true amount of the monies in cash and the value of any property or security included in the consideration is as follows:

- (a) Monies paid in cash ..... \$1.00
- (b) Property transferred in exchange:
  - Equity value \$ nil
  - Encumbrances \$ nil
- (c) Securities transferred to the value of \$ nil
- (d) Balances of existing encumbrances with interest owing at date of transfer \$ 32,443.25
- (e) Monies secured by mortgage under this transaction..\$ nil

(f) Liens, legacies, annuities and maintenance charges to which transfer is subject .....\$ nil

Total consideration \$ 32,444.25

- 4. If consideration is nominal, is the transfer for natural love and affection?
5. If so, what is the relationship between Grantor and Grantee? Brothers
6. Other remarks and explanations, if necessary .....

Sworn before me at the City of Kingston)
in the County of Frontenac this 29 ) "W. R. Glover"
day of July A.D. 1944 )

"William O. Dwyer"
A Commissioner etc.

CANADA ) I, Helen Parent, of the City of Kingston,
Province of Ontario) in the County of Frontenac, Stenographer,
County of ) make oath and say:
20 Frontenac To Wit:)

1. THAT I was personally present and did see the within Instru-
ment and a duplicate thereof duly signed, sealed and executed
by

Albert Glover -and- Evelyn Glover
the parties thereto

2. THAT the said Instrument and Duplicate were executed by the
said parties at the City of Kingston.

3. THAT I know the said parties.

4. THAT I am subscribing witness to the said Instrument and Duplicate.

30 SWORN Before me at the City of Kingston )
in the County of Frontenac this 29th ) "Helen Parent"
day of July, A.D. 1944 )

"William O. Dwyer"
A Commissioner etc.

County of ) I, Albert Glover of the City of Kingston
Frontenac ) in the County of Frontenac, Retired Grocer,
TO WIT: ) do solemnly declare;

(A) That I was at the time of the execution and delivery by me of the within instrument, of the full age of twenty-one years, and that I was legally married to

Evelyn Glover who joins therein to bar dower.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

DECLARED before me at the City of Kingston )  
in the County of Frontenac this 29th ) "Albert Glover"  
10 day of July, A.D. 1944 )

" William O. Dwyer"  
A Commissioner etc.

Dated

July 29th

A.D. 1944

ALBERT GLOVER

-TO-

WILLIAM GLOVER

Address 264 King Street,  
KINGSTON, Ont.

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QUIT CLAIM DEED

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I certify that the within Instrument  
is duly entered and registered in the  
Registry Office for the Registry Division  
of Kingston and Frontenac, in Book 60  
for the City of Kingston at 11:37  
o'clock A.M., of the 19th day of January  
A.D. 1946, Number 61005  
"W. J. Gibson" Registrar

W. O. DWYER  
KINGSTON, Ont.

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of  
is produced by the P., this  
19th day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

This is the LAST WILL AND TESTAMENT of me, ALBERT GLOVER,  
of the City of Kingston, in the County of Frontenac, Retired Grocer.

- 10 1. I REVOKE all former wills and other Testamentary Dis-  
positions by me at any time made, and declare this to be my last  
Will and Testament.
- 2. I nominate, constitute and appoint my brother, Dr. William  
R. Glover, of the City of Kingston, in the County of Frontenac,  
as sole Executor and Trustee of this my last Will and Testament.
- 3. I direct that all my just debts, funeral and testamentary  
expenses be paid and satisfied.
- 4. I direct that my entire estate, both real and personal,  
of whatever nature and wherever situate, be given to my said  
20 Executor and Trustee, upon the following trusts, that is to say:-

To pay to my wife, Evelyn, the income therefrom during  
her natural life. On the death of my said wife, Evelyn, to pay  
her funeral and testamentary expenses.

To give the corpus to my son, Dr. Albert Moore Glover,  
upon the death of my said wife.

IN WITNESS WHEREOF, I have hereunto set my hand at the  
City of Kingston, this 2nd day of August in the year of Our Lord  
One Thousand Nine Hundred and Forty-four.

30 SIGNED AND ACKNOWLEDGED by the )  
above said Testator, Albert Glover, )  
as and for his last Will and Testament )  
in the presence of us, present together )     Albert Glover  
who at his request in his presence and )  
in the presence of each other at the )  
same time have subscribed our names as )  
witnesses. )

Witness William O. Dwyer  
Witness Helen B. Papineau  
In The Surrogate Court of the County of Frontenac.

40 I certify the above to contain a true copy of the last  
Will and Testament of ALBERT GLOVER, deceased, as proved in the  
said Court.

Registrar of the said Court

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

THE BROCKVILLE LOAN and SAVINGS COMPANY ..... PLAINTIFF

AND

ALBERT GLOVER and EVELYN GLOVER ..... DEFENDANTS

I, Robert Fraser Vair, of the City of Kingston, in the County of Frontenac, Sheriff, make oath and say as follows:

(1) I did on the 25th day of January A.D. 1936 personally serve Albert Glover and Evelyn Glover ..... the above-named defendants in this action, each with a true copy of the writ of summons herein, hereto annexed, by delivering the same to and leaving the same with the said defendants on the day last aforesaid at The City of Kingston in the County of Frontenac.

(2) Upon the said copies so served as aforesaid was endorsed at time of such service, true copies of all the endorsements appearing upon the said Original writ of Summons except the endorsement hereinafter mentioned.

(3) That to effect such service I necessarily travelled one miles.

(4) Subsequently, namely, upon the 25th day of January A.D. 1936 I did endorse upon the said original writ of summons..... the day of the month and week of such service.

Sworn before me at the City of Kingston, )  
in the County of Frontenac, this 27th ) SGD. "ROBERT F. VAIR"  
day of January A.D. 1936 ) Sheriff

SGD. " C. H. WOOD "

A Commissioner for taking Affidavits in B. R. &c.

1936

No. 6 IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

IN THE SUPREME COURT  
OF ONTARIO

THIS EXHIBIT, the property of  
D., is produced by the D., this  
20th day of February, 1947.

BETWEEN

"C. H. WOOD"  
Clerk of Assize.

S E A L

THE BROCKVILLE LOAN AND SAVINGS COMPANY

10 ONE DOLLAR  
LAW STAMP

PLAINTIFF

AND

ALBERT GLOVER and EVELYN GLOVER

ONE DOLLAR  
LAW STAMP

DEFENDANTS

EDWARD THE EIGHTH, by the Grace of God of Great Britain,  
Ireland and the British Dominions beyond the Seas, King,  
Defender of the Faith, Emperor of India.

To Albert Glover and Evelyn Glover

20

of the City of Kingston,  
in the County of Frontenac.

30

Issued from the Local Registrar's Office  
at the City of Kingston  
in the County of Frontenac

We COMMAND YOU, that within TEN days after the service  
of this Writ on you, inclusive of the day of such  
service, you do cause an appearance to be entered for  
you in this action, and within the same time that you  
do file an affidavit in the office in which your ap-  
pearance is to be entered, showing the nature of your  
defence (if any) to the Plaintiff's Claim, and that  
you do forthwith thereafter serve a copy of such  
affidavit upon the Plaintiff's Solicitor.

AND TAKE NOTICE, that in default of your so doing,  
the plaintiff may sign judgment for the relief claimed  
as indorsed on this writ, and execution will at once  
issue thereon.

WITNESS, The Honourable HUGH EDWARD ROSE, Chief Justice  
of The High Court, this 24th day of January, in the  
year of our Lord, 1936.

SGD. "C. H. WOOD"  
Local Registrar S.C.O.

40

N.B. -- This Writ is to be served within 12 Calendar  
months from the date thereof, or if renewed, within  
12 Calendar months from the date of such renewal, in-  
cluding the day of such date and not afterwards.  
Appearance may be entered at the Local Registrar's  
Office at Kingston, Ontario.

SGD. " C. H. WOOD "  
Local Registrar S.C.O.

The plaintiff's claim is on a mortgage dated the 17th day of March, 1927, made between the Brockville Loan and Savings Company, a corporation having its head office at the Town of Brockville, Mortgagee, and Albert Glover and Evelyn Glover, of the City of Kingston, mortgagors.

, and that the mortgage may be enforced by foreclosure. And to recover from you the defendant Albert Glover payment of the amount due under a covenant by (you) Albert Glover in that behalf contained in the said Mortgage.

10 And take notice further that the plaintiff claims to be entitled to recover immediate possession of the mortgaged premises.

And take notice that the plaintiff claims that there is now due by you for principal money the sum of \$ 3,625.57 and for taxes the sum of \$ and for premiums of insurance the sum of \$ and for the sum of \$ and for interest the sum of \$ 129.69 and that you are liable to be charged

20 with these sums and subsequent interest to be computed at the rate of 6½ per centum per annum and costs, in and by the judgment to be drawn up and that in default of payment thereof within six calendar months from the time of drawing up the judgment your interest in the property may be foreclosed unless before the time allowed you for appearance you file in the office within named a memorandum in writing entitled in this action and signed by yourself or your solicitor to the following effect:-- "I/We dispute the amount claimed by the plaintiff in this action," in which case you will be entitled to four days' notice of the taking of  
30 the account of the amount due to the plaintiff.

If you desire a sale of the mortgaged premises instead of a foreclosure, and do not intend to defend the action, you must, within the time allowed for appearance, file in the office within named, a memorandum in writing entitled in this action and signed by yourself or your solicitor, to the following effect:-- "I/We desire a sale of the mortgaged premises in the plaintiff's writ of summons mentioned, or a competent part thereof, instead of a foreclosure," and you must deposit in the Court to the credit of this action the sum of \$80 to meet the expenses of such sale  
40 and attach to the said memorandum a certificate of the Accountant of the Supreme Court to the effect that such deposit of \$80 has been made.

The following is a description of the mortgaged premises:

All and Singular that certain parcel or tract of land and premises situate lying and being in the said City of Kingston,



containing seven and three-tenth square perches, more or less, being composed of the South-western part of town lot number eight on Bagot Street, as laid out on a plan of subdivision of park lot number two in the said City of Kingston, made by Thomas Fraser Bibbs, Deputy Provincial Land Surveyor, for one John Counter, and which said plan is dated the 15th January 1850, and August 23rd, 1850, and was registered in the Registry Office for the City of Kingston on August 30th, 1850, and is now on file therein as B27, and which said parcel is more particularly described as follows:- COMMENCING at the intersection of Bagot Street and Earl Street where a stone monument is planted and running North fifty degrees five minutes West along Earl Street one chain eighteen and eight-tenth links to a point fourteen and eight-tenth links, or nine feet on a perpendicular breadth distant from the side line of lot number nine, the space between being left as a right-of-way in common for the middle and North-westerly and this South-westerly part of the lot then running North-easterly on a line parallel to the side line of lot number nine, fifty-seven and one-fifth links, then South thirty-nine degrees, forty minutes East one Chain, one and four-fifth links to Bagot Street then South fifty degrees and twenty minutes West thirty and one-half links to the place of beginning.

And the Plaintiff further claim \$ 45.00 for costs.

Character of parties, The plaintiff is the predecessor of the Brockville Trust and Savings Company

Place of trial, Kingston.

WARNING TO DEFENDANT

This Writ, being specially endorsed, the defendants are warned that in addition to entering appearance within the time limited, they must, within the same time file an affidavit showing the nature of their defence to the Plaintiff's claim, and forthwith thereafter to serve a copy upon the Plaintiff's Solicitor, and that in default judgment will be entered and execution issued.

If you pay the amount of the Plaintiff's claim within the time limited for appearance, further proceedings will be stayed. If you deem the amount claimed for costs excessive you may have them taxed.

This Writ was served by Mr. R. F. Vair  
on Albert Glover  
one of the Defendants

No.

A.D. 193

IN THE SUPREME COURT OF  
ONTARIO

on Saturday, the 25th day  
of January 1936

This memorandum is made this 25th day  
of January 1936

THE BROCKVILLE LOAN AND  
SAVINGS COMPANY

10 (Signed) ROBERT F. VAIR,  
Address Court House,  
Kingston, Ont.

This Writ was served by Me, R.F. Vair  
on Evelyn Glover

\_\_\_VS\_\_\_

One of the Defendants

ALBERT GLOVER and EVELYN GLOVER

on Saturday, the 25th day  
of January 1936

This memorandum is made this 25th day  
20 of January 1936

(Signed) ROBERT F. VAIR,  
Address Court House,  
Kingston, Ont.

WRIT OF SUMMONS  
ACTION ON MORTGAGE--FORE-  
CLOSURE

Underwood Elliot Fisher, Ltd.,  
Toronto, Legal Form Dept.

30 This Writ was served by  
on the Defendant  
on day, the day  
of 193

This Writ was issued by CYRIL  
M. SMITH  
of the City of  
Kingston  
in the County of  
Frontenac  
Solicitor for the said Plaintiff  
who resides at Brockville, Ont.

This memorandum is made this day  
of 193  
(Signed)  
Address

Sheriff's Fees, etc. \$3.90

IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D., is produced by the D., this 20th day of February, 1947.

"C. H. WOOD"  
Clerk of Assize.

THIS INDENTURE made (in duplicate) the first day of January, one thousand nine hundred and seven.

10 IN PURSUANCE OF THE SHORT FORMS OF MORTGAGES ACT.

BETWEEN:

ALBERT GLOVER, of the City of Kingston, in the County of Frontenac, Merchant, hereinafter called the Mortgagor OF THE FIRST PART:

-AND- WILLIAM R. GLOVER, of the same place, Dentist, hereinafter called the Mortgagee OF THE SECOND PART:

and EVELYN GLOVER, wife of said Mortgagor OF THE THIRD PART:

20 WITNESSETH, that in consideration of Twenty-Five Thousand Dollars of lawful money of Canada, now paid by the said Mortgagee to the said Mortgagor, the receipt whereof is hereby acknowledged, THE said Mortgagor DOTH GRANT AND MORTGAGE unto the said Mortgagee, his heirs, executors, administrators and assigns forever,

30 ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the said City of Kingston, and being composed of part of Farm Lot Number Twenty-Five in the First Concession of the Township of Kingston formerly, now in the City of Kingston, and being that part of what was formerly known as the Grammar School grounds lying between Clergy, Earl and West Streets, leased by the Trustees of the Kingston County Grammar School to one Samuel Woods by Indenture of Lease dated Dec.24, 1870 and registered in the Registry Office for the City of Kingston on March 5, 1880 as No. 1509; which land hereby conveyed may be further known and described as follows:-

40 COMMENCING at a point where the Northern wall of the Frontenac County Gaol, or its production Easterly, intersects the Westerly limit of West Street; thence Westerly along said wall one hundred feet six inches, more or less, to a line fence; thence Northerly along said fence and its production to a point in the Southerly limit of Clergy Street distant sixty-nine feet four inches

more or less, from the Westerly limit of Earl Street; thence Easterly along said Southerly limit of Clergy Street to a point where said limit intersects the Westerly limit of Earl Street; and thence Southerly along the Westerly limits of Earl and West Streets to the place of beginning.

PROVIDED this Mortgage to be void on payment of Twenty-Five Thousand Dollars of lawful money of Canada, with interest at five percent (per annum) as follows:

Said principal in five years from the date hereof.

10 (With the privilege of paying any sum on account of principal at any time or times during said term).

AND the interest half yearly from the date hereof.

AND interest at said rate on all arrears of interest until paid.

AND Taxes and performance of Statute labor.

COVENANTS.

AND that on default the Mortgagee shall have quiet possession of the said lands, free from all incumbrances, save a mortgage to the London Life Insurance Co., for \$25000.00.

20 COVENANTS.

AND the said party of the third part, wife of the said Mortgagor hereby bars her dower in said land.

IN WITNESS WHEREOF the said parties have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED	)		
in the presence of	)	Albert Glover	L.S.
Teresa Staley.	)	Evelyn Glover	L.S.

DATED Jan. 1st, A.D., 1927.

---

ALBERT GLOVER ET UX

-TO-

WILLIAM R. GLOVER

264 King St.,  
Kingston, Ont.

-----  
M O R T G A G E

TO SECURE \$25,000.00.

-----

NOT TO BE RECORDED IN FULL

I certify that the within Instrument is duly Entered and Registered in the Registry Office for the Registry Division of Kingston and Frontenac in Book 48 for the City of Kingston at 1.39 o'clock P.M. of the 23rd day of August, A.D. 1928 Number 4 4 4 5 3 .

(Sgd.) W. J. Gibson, Registrar.

W. MUNDELL.

---

I certify that an Instrument purporting to be a discharge of the within mortgage is duly Entered and Registered in the Registry Office for the Registry Division of Kingston and Frontenac in Book 50 for the City of Kingston at 2.37 o'clock P.M., this 15th day of July, A.D. 1931, as Number 4 7 1 4 2 .

(Sgd.) W. J. Gibson,  
Registrar.

IN THE SUPREME COURT OF ONTARIO  
Glover vs. Glover  
THIS EXHIBIT, the property of D  
is produced by the D this 20  
day of February 1947.

C.H. Wood  
Clerk of Assize

LEDGER

Total Income by months.

10	May	495	
	June	565	
	July	405	
	August	515	
	September (A. cash 90)	365	
	October (A. cashed 135)	485	
	November A "	100	360
	December		

Expense Account

May 1st

20	May 11	To	1 ton buckwheat coal	\$	10.00
	8	"	1 ton chestnut		15.00
	9	"	1 ton buckwheat		10.00
	20	"	1 ton "		10.00
		"	1 cord wood		10.00
	20		1 ton stove coal		15.00
	11		1 ton Buckwheat		10.00
	1		1 blind		4.10
			Telephone		2.50
			gas & light		8.70
30	A p 30		Water		13.37
			Water		2.51
	June 26	To	gas & light		8.51
			Water		12.40
	24		1 ton coal		14.00
	July 14	To	1 ton nut coal		14.00
	20	To	Electric & gas		8.63
			petrick		3.20
	31		Water		12.87
40	Aug 1st		Blinds Connolly		11.10
	" 3		1 ton nut coal		14.00
	3		Thackery	Fox	16.80
	10			Fox	12.00
	Aug	--		Fox	17.40
	27		clearing away		17.50
	Aug 27		Elec & gas		10.91
	" 24	--			1.95
	Sept 2		Refrigerator service		3.00

	Sept	12	1 ton nut coal	14.00
	"	26 To	Elect & gas	12.26
		27 To	1 ton coal	14.00
			$\frac{1}{2}$ ton canel coal	8.50
	Sept	--	--	3.00
				2.00
	Oct	4	Richardson 4980 coal C72	17.43
	Oct	5	1 ton pea coal (Crawford)	10.50
		11	Kingston lumber co	22.50
	Coal			
10	May	22 To	1 ton coal	15.00
	May	10 To	nut	14.00
	Aug	3 To	nut	14.00
	"	24 "	1 ton nut	14.00
	Sept	7	$\frac{1}{2}$ ton canel	8.50
	"	12	1 ton nut	14.00
		21	1 " "	14.00
	Oct	3	1 ton nut	14.00
	"	5	1 pea coal	10.50
	Oct	9	2 tons stoker	17.43
20	"	12	2 " buckwheat	19.00
	Nov	18	4800 lbs wheat	22.80
	Dec	5	$\frac{1}{2}$ ton canel	8.00
	Feb.	1	$\frac{1}{2}$ ton canel	8.00
	Oct	25	Weaver co 73080	26.49
	Nov	2	" 64700	22.66
	Nov	26	" 64600	25.35
			Duty & excise	2.39
	Oct	31	freight	175.26
	Nov	21	C.N.R.	48.45
30	Apartment			
	April	30	Water	13.37
	"	30	"	2.59
	Taxes		172 Earl	461.58
	Taxes		174	1299.84
	July	19th	London Life	1189.95
			C P R freight	132.01
			Excise	27.33
			Excise	23.94
	Feb	15	$2\frac{1}{2}$ cord w	22.50
40	May	6	1 cord wood	10.00
	Apartment			
	May	27	gas & electric	8.70
	June			8.31
	July			8.63
	Aug			10.81
	Sept			11.03
	Oct			11.23

	Nov		10.33
	Dec		9.19
	Jan		7.22
		Water	
	May - April		13.37
	June		12.40
	July		12.87
	Aug		
	Sept		
10	Oct		17.54
	Nov		19.16
	Dec		13.08

174 Earl  
May Telephone 2.50

Repairs

	Sept	9th	Caswell (Refrg)	3.00
	Nov	16	----	10.10
	Dec	30	-----	20.26
	Oct		Mr. Hebert	111.89
20			Advertising Whig Standard	4.50
	July		patrick	3.25
	Aug		--- Lister co	11.00
			Kingston lumber co	22.50
	Aug	12	Pox	12.00
				5.00
	Aug	31	Pox	14.40
			paint	1.95
	Aug	3	Pox	16.80
	July	1	Blind	4.15

30 Apartment 174 Earl  
May 1 To Blind for Mrs. Uglow 4.15  
June 9 " " 2.30

Insurance - 170 Earl

\$9000 in Royal Exchange London, No. of policy 9250805  
expires July 23, 1938 premium \$40.50

Comment

The 5.29 shown in bank account for June isn't income from apartment it is for groceries with cheque for rent.

40 Exchange on T.J.'s cheque 350 \$ 4.57  
" London Life 1.25

Postage

3 / 6 / 12 / 12 / 6 / 3 / 6



Exchange on coal cheque 30¢ postage 6¢  
 Exchange 30 / 30¢

Apartment a/c of Amount owing to WR Glover .

Amount A owes me for 1935 \$335

	Less Refrigerator for Oct	10.10
	Water	17.54
	Electric	11.23
	1 ton coal	14.00
10	Nov Whig Standard	1.80
	Refrigerator	20.26
	Water	19.16
	Electric	10.33
	Dec Electric	9.19
	Whig Stand	1.00
	½ ton canel coal	8.00
		122.61

	Expense	
20	April 15 Water	16.58
	Morris coal co	56.00
	2 tons stoker 2 buckwheat	
	½ ton canel 8.00 1 ton nut 14	
	April 15 S. Anglin Co	14.53
	To 4150 lbs stoker coal	
	( 8 To 3 tons buckwheat	30.00
	( 18 To 2 tons nut (Morris)	28.00
	( 27 3500 stoker	19.25
	Mar 2 sowards 2 tons	29.00
	13 sowards 1 ton	14.00
30	April 8 3 tons buckwheat	20.00
	18 2 tons stoker	20.00
	27 5300 stoker	19.25
	Mar 5 tons stoker	35.00
	1 ton nut	14.00
	Mar 25th 2 tons buckwheat	20.00
	½ ton canel	8.00
	28 1 ton nut	14.00
	2 tons stoker	14.00
	Ap 30 To 2 tons buckwheat	20.00
40	May 18 To 1 ton nut	14.00
	1 ton stoker	14.00
	June 9 To 1 ton stoker	7.00
	July 7 To 2 tons stoker	15.00
	1 ton nut	14.00
	1936 Gas & Electric	
	May 28 Gas & Electr 117	6.48
	June 27 " " 117	6.88
	July 27 " " 50	6.38

Water						
May	30	172 Earl	2.21	-	16.22	\$ 18.43
June	30	"	3.93	-	17.23	21.16
July	31		4.21	-	17.89	22.10

1936 Apartment Expense				
May Chown				7.75
Cement				1.50

Wages					
10	May	30	To wages		12.00
	July	3	" "		10.00
		27	" "		12.30
		25	" "		8.50
		25	-----		14.00
	Aug	1	-----		15.20

1936 Advertising				2.00
July 3	Whig Standard			
Aug 15	" "			.98
May 15	-----			.72
July 3	Ramsay plumbing			6.82

20 Earls court Apartment

		Revenue							
		May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
174 Earl Street									
	1 Mrs. Uglow	80	80	80	80	80	80	80	80
	2 Col. Connolly	85	85	85	85	85	85	85	85
	3 Nelson						55	-	-
	4 Ed Green	55	55	55	55	55	55	55	55
	5 Major Thackery	85	-	-					
	6								40
30	7 Prof Currie	50	50	50	50	50	-	50	50
	8 Mabel Edwards	45	45	45	45	45	-	-	-
	9 Miss Lashley								
	M. Nichol	50	50	-	50	50	50	50	50
170 Earl									
	Mrs Davis	45	40	40	40	-	-	40	40
	Mr. N. Crothers		160	-	160	-	160	-	140
		495	565	405	515	365	485	360	540

1936		174 Earl											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
40	1 Mrs Uglow	80	80	80	80	80	80	80	80	80	80	80	.80
	2 Col Connolly												
		85	85	85	85	85	85	85	85		80	80	80
	3 Mr Nelson	55	55	55	55	55	55	55	55	55	55	55	55
	4 Ed Green	55	55	55	55	55	55	55	55	55	50	50	50
	5 Prof Jellie										75	75	75
	6 Mr Leonard-	-	-	40	-	-		40	40	0	0	0	40
	7 Mills	50	66.33	50	50	-	-	-			50	50	50

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
8 Mabel Edwards	-	-	-	-	45	-	45	00	45	45	45	45
9 Miss Lashley Nichol	50	50	50	50	50	50	50	50	50	50	50	50

170 Earl

1 A. Glover

2 M. Crothers-

3 Mrs M. Davis

		80	-	80	-	80	-	80	-	80	-	-
	40	40	40	40	40		40	-	-	-	-	-
	415	513	455	495	410	385	450	445	285	565	485	525

10 1937 174 Earl and 170 Earl Apartments

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1 Mrs Uglow	80	80	80	80	80	80						
2 Col. Connolly	80	80	80	80	80	-						
3 Mr. Nelson	55	55	55	55	55	55						
4 Ed Green	50	50	50	50	50	50						
5 Prof Jellie	75	75	75	75	75	75						
6 Mr. Leonard	40	40	40	40	40	40						
7 Mills	50	-	50	50	50	50						
8 Mabel Edwards	45	45	45	45	-	41.70						
20 9 Miss Lashley Nichol	50	50	50	50	50	50						

170 Earl

1 A. Glover

2 M. Crothers

3 Mrs. Davis

	525	475	525	525	480
	525	475	525		

1938 174 Earl

30 1 McCallum					60	60	60	60		-	-	
2 Turnbull Rogers	75	75	75	75	9	75	75	75	37.50			
3 Nelson	55	55	55	55	55	55	55	55	55	55	55	55
4 Green	50	50	50	50	50	50	50	50	50	50	50	50
5 Gelley	75	-	75	-	75	75	75	75	-	75	75	75
6 Morris	40	40	40	40	40	40	40	40	40	40	-	40
7 Mills	50	50	50	50	50	50	50	50	50	50	50	50
8 Lewis	41.66	41.66	41.70	41.66	41.75	41.75	41.70	41.70	41.66	41.70	41.70	41.67
9 Wood	50	50	50	50	50	50	50	50	50	-		

170

40 1 Glover

2 Crothers

3 Robertson

	436.66	361.66	436.70	361.66	430.75	496.75	496.70	496.70	324.16	386.70	346.70	336.67
--	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------

1939		No	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	McCallum	1	60	60	60	60	60	60	60	60	60		60	60	
	Rogers	2	75	75	-	-	75	75	75	65	-	-			
	Nelson	3	55	55	55	55	55	-	0		-	-	-	-	
	Green	4	50	50	50	50	50	50	50	50	50	50	50	50	
	Gelley	5	75	75	75	75	75	75	75	75	-	-		70	
	Morris	6	40	40	-	-	-	-	0		16				
	Mills	7	50	50	50	50	50	50	50	50	50	50	50	50	
	Melvin	8	41.66	41.70	41.60	41.60	0	0	0		16	-	47	47	
10	Gardener	9	50	50	50	-	47	47	47	47	47	(57)47	47	47	
	Soanes		-----				50	50	50	50	50			40	
	Steacy		-----				-	85	85	85	85	85	85	85	85
	Crothers		-----				-----				75	75	70	70	
			496.66	502	381.60	331.60	462	442	492	482	433	317	389	479	

1940	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1 Paton	58	40	60	60	60	60		60	60	60	60	60
2 Carson	70	70	70	70	70	70		70	75	75	70	75
3 A Glover												
4 Green	50	50	50	50	50	50	50	50	50	50	50	50
5 Panet	70	70	70	70	70	70	70	70	70	70	70	-
6												
7 Mills	50	50	50	50	50	50	50	50	50	50	50	50
8 Melvin	47	47	-				-	45	45	45	25	-
9 Gardener	47	47	47	47	47	40		25	47	47	40	25
10 Soanes	50	50	40	50	50	35	50	50	50	50	50	50
1 Steacy	85	85-	85	85	85	85	85	85	85	85	85	85
2 Crothers	70	70	70	70	70	70	70	70	70	70	70	70
3 Robertson												
	597	579	542	552	552	530	375	575	542	602	670	510

1941

1 Paton	60	60	60	60	60	60	60		60	60	60	60
2 Carson	75	75	75	75	75	20	75	75	75	75	-	75
3 Glover												
4 Green	50	50	50	50	50	50	50	50	50	50	50	50
5 Brownfield	75	75	75	75	75	75.18	75	75	75	75	75	75
7 Mills	50	50	50	50	50	50	50	50	50	50	50	50
8 MacFarland	45	45	-						45	-		45
9 Gardener	25	47	47	47	47	47	47	47	47	47	47	-
10 Soanes	50	50	50	50	50	50	50	50	50	50	50	50
Steacy	85	85	85	85	85	85	85	85	85	85	85	85
Crothers	70	70	70	70	70	70	70	70	70	70	-	-
Ryan	50	50	50	45	45	45	45	45	45	45	45	45
Whit												
	635	657	612	607	607	552.18	607	547	652	607	412	535

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>1942</u>												
1 Paton	60	-	120	60	60	60	60	60	75	75	60	60
2 Carson	75	75	75	75	75	75	75	75	75	75	-	
3 Glover												
4 Green	50	50	50	50	50	50	50	50	50	50	50	50
5 Brownfield	75	75	75	75	75	75	75-	75	75	75-	75	75
7 Mills	50	50	50	50	50	50	50	50	45	45		50
8 MacFarland				45	45			45				
9 Gardener		47	47	47	47		47	47			47	47
10 Soanes	50	50	50	50	50	50	50	50	50	50	50	50
Steady	85	85	85	85	85	85	85	85	85	85	85	85
Crothers	-			80	80	80	80	80	80	80	80	80
Ryan	45		45		45	45	45	45	45		45	45
Whit	490	412	597	617	737	645	692	737	505	535	520	617
<u>1943</u>												
1 Crawford	60	0	60	60	60	60			60	60		
2 Carson			75			75	75	75	75	75	75-	75
3 Glover												
4 Green	50	50	50	50	50	50	50	50	50	50	50	50
5 Morton	75	75	75	75	75	75	75	75	75	75	75	75
6 Mills												
7 Reid	45	50	50				50		50	45	50	50
8 Gardener	47										45	45
9 Soanes	50	50	50	50	50	50		50	50	50	50	50
10 Steady	85	85	85	85	85	85	85	85	85	85	85	85
1 Pisdall	80	80		80	80				76	76	76	80
Palmer ?	75	75	75	75	75	75		75	75		75	75
Glover	45	45	45	45	45	45	45	45	45	45	45	45
	612	510	565	320	520	515	305	455	841	561	626	630



1944

46 Sydenham

	Jan	Feb
Mills	125	125
Heenie	105	105
Matheson	65	65

1946 172 Earl St

Jan

	Mrs Steacy	85
	Mrs Rossland	66
10	Prof Stanley	
	Major Glover	45

174

	T. J. Glover	95.00
	Miss Campbell	60.00
	Mrs Guild	50.00
	Mrs. A. Glover	-----
	Jack Gardener	
	Capt Hyslop	50.00
	Mr. Green	50.00
	Mrs. Mills	
20	Miss Roche	42.00
	Mrs. Morton	75.00



IN THE SUPREME COURT OF ONTARIO  
Glover vs. Glover  
THIS EXHIBIT, the property of D  
is produced by the D this 20 day  
of Feb. 1947

C.H. Wood  
Clerk of Assize

1937

BOOK OF ACCOUNT

174 Earl

Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

10	1 Mrs. Uglow	80	80	80	80	80	80	75	75	75	-	-	-
	2 Sam Abramsky	80	80	80	80	80	-	-	-	75	75	75	75
	3 Mr. Nelson	55	55	55	55	55	55	55	55	55	55	55	55
	4 Ed Green	50	50	50	50	50	50	50	50	50	50	50	50
	5 Prof Jellie	75	75	75	75	75	75	75	75	75	75	75	-
	6 Arthur Morris	40	40	40	40	40	40	40	40	40	40	40	40
	7 Mr. Mills	50	-	50	50	50	50	50	50	50	50	50	50
	8 Mabel Edwards	45	45	45	Lewis	41.70	41.70	41.70	41.70	41.70	41.70	41.66	41.66
	9 Miss L. Nichols	50	50	50	50	50	50	50	50	50	25	50	50

172 Earl St

20

A. Glover

Mr. M. Crothers

Geo. Robertson

		-	-	-	-	-	-	-	-	-	-	-	-
		525	475	525	480	480	41.70	43.70	43.70	51.70	40.670	43.66	43.66

1937

Jan 5th To 100 gals fuel oil cheque 10.50

Jan. 19 Transferred \$200 to Trust account making its indebtedness to \$1800 800 original note for taxes paid off in Jan. 36. borrowed \$800 for taxes Sept for apartments: paid 644.95 interest / 498.17 principal.

30 Feb. 11 Transferred \$180 from Trust a/c to current a/c leaving indebtedness \$1700.00

Mar 8 paid \$400.00 note

" 12 Transferred \$100 from National Trust a/c leaving amount owing me \$1200

June 23 Borrowed from Robert \$400 for life insurance prem.

May 100 shares central patricia \$349 leaving balance owing my a/c 1200 - 349 -- \$867

July 17 Check 400 / 30.00 cash from current a/c to Trust a/c

40 Aug 20 Check 242.35 to pay insurance prem for mutual life - 2 policies.  
Therefore Trust a/c owes current a/c \$430.20 less \$242.35 which is \$187.85

Oct 30th Bought 100 shares Lap Cadillac \$205 Trust a/c cheque

Feb 12 To 24 tons buckwheat coal 9.25 220.52  
 S " stoker coal 6.75 54.65  
 1/2 ton canel coal 8 8.00  
 \$292.17

Mar Bought 100 shares Central pat 270 / 3 -- 273  
 Current a/c owes 205 / 273 -- \$478.

Aug Drew on trust a/c for 233.45 Mutual life Bought 100  
 shares Central patricia 250 / 3 -- \$253 in Trust a/c

10 Sept 28 Bought 100 shares Lapa Cad. \$367.50 deposited cheque  
 for \$100 to Trust a/c.

1938

Oct 21st Transferred to Trust a/c from current \$180 plus 25  
 coupon / 51.50 cash making \$256.50. Borrowed \$1000  
 to pay apartment taxes.

Summary to 21st Oct owed trust account 233.45 / 367.50 / 253 --  
 \$853.95 less \$355.50 -- \$498.45.  
 (shingles cash 2.38 paid / 25 deposit) (Oct. 22) to  
 bal a/c Nov. 1st \$25 deposit to cover Kelvinator cheque;  
 498.45 less 52.38 -- \$446.07.

20 Dec. 16 Borrowed \$100 for Hawkins bond and paid \$2 for sand/  
 10.00 counter a/c for Marshall / 78 for H. Peters --  
 \$90.00.

1937

Jan 5th Light 6.36 water 10.50 16.36  
 oil 10.50 water 10.18 exchange 1.15 21.83  
 London Life 1143.12  
 Int on note 3.40

Feb oil 10.50 light 6.12 \$6.00 cheque 1.00  
 cheque 292.17 water 12.36 oil 10.50  
 30 cheque 2.70 oil 10.50

Mar \$5.00 \$400 cheque on note oil 10.50 light 6.49  
 cheque 100 oil 10.50 water 11.27 Int. 205.50

April 15.00 light 6.47 oil 10.50 129.09 oil 10.50  
 water 11.89 cheque \$349 (cent pat)

Apr 1938 paid \$10 to trust a/c to balance a cheque  
 21 paid Crane Co. 5.85 for bath curtain  
 30 Deposited to trust a/c \$65.00 to give bal.

May 17 Trust a/c pays current a/c \$80.85 to balance

40 Dec. 17/35 From page III  
 Owe Trust a/c 546.07 less \$90.00 -- \$456.07

1939

Jan. 6th paid cash \$1.00 diff on check for water. Drew \$100  
 for Robert for Hawkins M.S. Therefore I still owe  
 Trust a/c \$456.07 less 1.00 - 455.07.

Jan. 19 Cheque 625 transferred from current a/c to Trust a/c.  
Kept \$40 Morris rent. 625 - 455.07 - \$ 169.95 less  
40 -- 129.93. Trust owes current a/c

Feb. 7 paid 12.00 water 5.60 electric for apartments  
16 pd. Hugh Peters 4.65, Crawford \$8.00 coal, Bruce &  
Sons 12.23 Douglas Marshall 14.10 Sherwin W. 15.48  
12.00 / 5.60 / 4.65 / 14.10 / 15.48 -- 20.25 -- 72.08  
51.83

Mar 1st Trust a/c owes current a/c \$29.93 / 72.00 -- \$102.01

10 Mar 4 Gave Burt cheque for \$431 on trust a/c  
" 6 paid electric \$5.09 water 11.94 for apartment \$17.03  
(Trust)

Mar 10 paid Lemmon & Sons for oil unit apart. 174 Earl \$39.20  
\$102.01 / 17.03 / 39.25 -- \$158.29

Jan 19 Trust a/c owes current a/c 129.95 Total -- \$288.22  
\$431 Burts check less 288.22 -- 142.78  
Current account on Mar 20th owes Trust a/c (142.78)

March 27 paid Douglas Marshal \$9.03 for Glover apart.

20 April 5 water bill for apartments 10.72  
gas & light 5.74 pd cash

April 20 Lemmons 1.22 Chowns 18.34 fixtures -- 19.56

April 27 paid drury supplies for apart. 27.60

May 2 paid water 10.93 electric 6.39 - 17.32

May 10th Hugh Peters 26.97 less 54 - 26.43  
Current a/c owes Trust a/c 142.78 less 116.40 --  
\$26.38

May 31 paid 1.25 Lemmons for oil heater (cash)  
" 5.52 Sherwin Williams for apartments (cash)

30 June 2nd Water 9.04 for apart. Electric 3.85  
" 3rd Drury 1.04 for apart.  
" 3rd Whitney blinds for apart - 12.55  
" Whitney lineoleum 18.60

June 8 Trust a/c owes current a/c 53.85 - 26.38 -- \$27.47 /  
25.00 / 27.50 Int. on bonds were credited to Trust  
a/c

9 John Peters 5.55 Sherwin W. 11.60  
(Kept \$50 Rogers rent to pay bills) Marshall 13.59  
Electric (10) 29¢  
5.55 / 11.60 / 13.59 / 29¢ -- \$31.03  
52.50 / 27.47 / 31.03 -- \$110.00 less \$50 Rogers  
leaves \$60 Trust a/c owes current.

40 June 26 Borrowed 200 Trust a/c for insurance 200 less \$60.00  
Current a/c owes trust \$140

July 1st 27.50 int that was credited to trust a/c was credited  
to current a/c which makes current a/c owe Trust a/c  
that much namely 27.50  
Current therefore owes 140 / 27.50 -- 167.50

July 6 paid water bill 7.70 / industrial accept (by mistake)  
18.65 -- \$26.35 167.50 - 26.35 -- \$141.15

July 7th J. Peters 5.55 Electric 6.17 13.75 Sherwin W. -  
 \$25.47 141.15 less 25.47 -- \$115.68  
 Borrowed 500 from Robert to pay L. Life insurance  
 Co int / 500 principal  
 500 - 115.68 -- \$384.32 Trust a/c owes C. a/c  
 Deposited \$75 Gelley cheque to C. a/c therefore Trust  
 a/c owes C. a/c 384.32 - 75.00 -- \$309.68

10 Aug 2 Electric light bill for apart. 5.45 water 8.88 --  
 \$14.33 Trust a/c owes 309.68 / 14.33 -- \$324.01 to  
 C. a/c

Aug 17 (paid Robert \$25.00 on his loan of 500)  
 " paid Sun life insurance \$231.90 with cheque on trust  
 a/c. Therefore Trust a/c owes c/a 324.01 - 231.90 --  
 \$92.11

Aug 25 paid Montreal Life 238.05 cheque in Trust a/c  
 Therefore C/a owes Trust a/c \$145.94

Aug 23 paid J. Peters cash 3.07 Drury's 6.70 Grand Co 3.00  
 Sherwin Williams 2.66 -- \$15.43

1939

20 Aug 23 Current a/c owes Trust a/c 145.34 less 14.93 -- \$130.41  
 Aug 29 Current a/c paid " " 75.00 therefore current  
 a/c owes " " 130 less 75 -- 55.41

30 Deposited from C/c \$60 to Trust a/c Therefore T A-c  
 owes c/a 60 - 55.41 -- \$4.59

Sept 5th paid water bill for apartment 7.28 electric 4.59 --  
 11.87 from a/c Therefore Trust a/c owes c/a 4.59 /  
 11.87 -- \$16.46

Sept 6th paid Peters \$4.30 Chown 3.84 lamp for apart, King  
 21.00 int of T a/c rent

30 13 paid Sherwin W. paint 15.12 out of rent 4.30 / 384  
 / 21.00 / 15.12 (44.26)  
 Difference in \$60 rent less 44.26 -- \$ 15.79  
 Trust a/c still owes C/a 16.46 less 15.74 -- .72 /

Oct 4 paid cash apart water bill 6.98 out of c/a

Oct 8 Apart. electric bill 5.00 paid out of c/a  
 Therefore T. a/c owes c/a 5.00 / 6.98 / .72 -- \$12.70

Oct 20 Borrowed \$700 on insurance for taxes / deposit of  
 \$50 / \$50 cheque from c/a  
 Therefore Trust a/c owes C/a \$812.70

40 Nov 1st paid 7.50 cleaning apart from fireman  
 " 3.45 Sherwin Williams paint for apart.

6 Water 6.34 Electric 5.40 Drury 12.90  
 Therefore Trust a/c owes C/a 812.70 / 35.59 -- \$ 848.29

Dec 4 Apart light bill 5.59 water 8.04 Peters 15.46  
 (Sherwin W. 12.52 Boyd for Electric range in No.  
 1 apart. 6.95 Kept 40.00 apart money of No. 1 45.56)  
 Therefore Trust a/c owes me 5.56 or (\$853.65)

1940  
Jan 6th paid light bill for apart 5.89 water 7.69 --  
 \$13.58  
 " 24 Lemmons 1.25 for shovel, King 1.75, Sherwin W.  
 1.63 paid (463) / (13.58) -- \$18.21  
 18 Current a/c paid Trust a/c 200 to make up am't  
 to pay London Life.  
 Trust Account owes Current a/c \$853.85 / 218.21  
 (or \$1072.06)

10 Feb 1st paid light for apartments 5.99 Drury 2.45 --  
 \$ 8.44  
 Feb 12 water for apartment 8.46 -- \$ 16.90  
 March 1st Trust account owes C. a.c. \$1088.96  
 5 paid light bill for apart \$5.79  
 Mar 7 Kept \$40 Soanes rent gave Albert \$10.00 for  
 sundries which leaves acc. at 5.79 / 1088.96--  
 1094.75  
 1094.75 less 40.00 -- \$ 1054.75  
 Mar 13 paid apart water 8.55 Amount owing C.a \$1063.30  
 20 Mar 18 paid Mutual Life Ass. Co \$400 in trust Therefore  
 Trust a/c owes C/c \$663.30

April 5th Electric 5.74 Shower spray 2.70 Sherwin W 8.68  
 Ap 10 To apart water 8.78 - \$25.90  
 Therefore Trust a/c is 689.20  
 Ap 9th paid 250 from trust a/c to Mutual life leaving  
 a balance \$439.20 due C. account  
 May 15th Water for apart 8.67 Electric 5.21 -- \$13.83  
 \$452.83  
 May 25 paid \$100 from Trust a/c to Mutual Life Int / 50  
 30 on loan leaving \$352.83 due C/a  
 June 1st \$352.83 due C/a  
 June 4th paid Electric 4.80 Drury's 2.05 Sherwin W 1.10  
 " 12 paid water bill 9.13 -- \$ 16.98  
 352.83 / 16.98 -- 369.81  
 June 26 paid Mutual Life 448.47  
 Therefore Current a/c owes Trust a/c 448.47 less  
 369.81 -- \$86.66  
 July 5th To Electric 4.33 Sherwin W. 469 water 9.27 /  
 8.29 total  
 40 July 17 Current a/c paid trust A/c \$400 to pay mortgage.  
 Therefore Trust a/c owes c/a -- 86.66 less 18.29 --  
 \$68.37  
 Therefore Trust a/c owes c/a 400 - 68.37 - \$331.63  
 24 To 4 crates 1.75 Electric 4.80  
 July 30 Whitney's 6.85 Lumber 88.06 Drury's 2.95 Water -  
 16.13 -- 114.48  
 Aug 14 paid Mutual Life insurance from Trust a/c \$237.15  
 Trust account owes C/a 331.63 plus 114.48-- 446.51  
 Therefore Trust a/c owes C/a 446.57 less 237.15- 209.36

Aug 31st Kept 25.00 Gardener a/c to pay bills. Davison 8.10  
 (secretary) Drury's \$16.08 Electric \$4.95 0 King  
 Sherwin Williams

Sept 7th Sherwin Williams 8.68 Oscar King 8.10 Water 12.59  
 8.10 / 16.08 / 4.95 / 8.68 / 6.10 / 12.59 -- 56.50  
 Therefore Trust a/c for month owes Current a/c  
 56.50 - 25.00 -- \$31.50  
 Accounts stand Trust a/c owes 209.56 / 31.50 --  
 \$ 240.86 to Current a/c

10 Sept 16 Frontenac sand & gravel 5.15  
 Therefore Trust a/c owes Current a/c \$246.01

Oct 2nd Apartment light 5.40 Sherwin W 11.30 Warren Supply  
 3.00 paid 4.50 D Marshall a/c off plumbing bill for  
 apartment.  
 Oct 19th Water 12.98 -- 37.18. Trust a/c owes C/a  
 246.01 / 37.18 - \$283.19

Nov 2nd paid S. Williams 2.16 Whitney 2.45 Light 5.54  
 15 Water for apartment 9.28 - 19.43  
 283.19 / 19.43 -- 302.68

20 paid for apartments \$724.11 (Coal 717.44 other 6.67)  
 Total Trust a/c owes C/a is \$1026.73

Dec 3 Whitney's (?) 10.07 Light 5.79 Water 9.92 -- 25.78  
 Total owing Trust a/c 1026.73 / 25.78 (--\$1052.51)

Nov 8 Cheque transferring \$343.00 from Trust account to  
 current a/c Therefore Trust a/c owes Current a/c  
 1052.51 less 343 -- 709.51

Dec 31 cheque to Kelvinator of Kingston 375.00 in trust.  
 Therefore Trust a/c owes Current a/c 709.51 less  
 375 -- \$334.51

30

1941

Jan. 1st 1941

E. light 5.93 Drury's 2.77 Sherwin Williams 6.02  
 -- \$15.02 Water 10.19 -- 25.21 Total \$359.71

(Attachment)

Sherwin Williams 26.53  
 ? 95.88  
 Chowns (cheque) C/c 72.34  
 Drury's C/c 19.73

40

Jan

am not sure which two are In Trust  
 I think the S & W & Chown's are C/c  
 Trust a/c owes C/a 87.12

(End of attachment)

1941

Jan 1 Apartment blinds Whitney 4.75  
 Electric 6.03 Lemmons 8.20 ? 8.57 Water 11.80  
 (39.35) / 359.71 -- \$ 399.06 Trust owes C a/c

March 5

Electric \$6.18 Water \$11.42 (17.60)

" 5

Cheque - cardigan securities \$464.00

April

Water 13.64 Income tax 786.37 (19.38)

Electric 5.74

May	2	Electric 5.54 Whitney 9.94 Water 13.65 - (29.13)
May	29	Bath Tub Overflow (1.37 / 53) Deposit to Trust a/c \$50.00
June	2	Utilities 5.40 Water 12.29
July	3	Utilities 5.15 Water 10.94
	29	Cr. from current a/c \$50 to pay L. Life paid int of curr ac. 148.50 taxes
July	31st	Income Tax 786.37 - 136.87 -- \$649.50 less 148.50 taxes \$501.00
10		current a/c owes T. Ac.
July	31	A.R. Davidson \$27.13
Aug	10	Water 12.83 Utilities 5.11 Shingles 11.70
Aug	20	repairs for Mrs. Crother Kelvinator 14.00
Sept	3	Utilities 4.80 Water 14.49
Sept	30	Jim Marshall 45.15
		Total paid to Trust a/c for Aug & Sep <u>135.21</u>
		501.00 less 138.21 -- 365.79 Oct 1st/41.
Oct	1st	Electric 5.11 deposit \$150 to Trust a/c Toilet tank in No. 3 172 Earl St. \$16.91 Sherwin 2.70 Water 15.39 (150 / 40.11) - 190.11
20	Oct	10 Amount due Trust a/c is (365 - 190.11) - <u>\$175.68</u>
	16	Deposited 104.50 to Trust a/c leave 71.18 owing to Trust
Nov	3	Electric 5.54 cartage stove 1.50
Nov.	6th	sand & gravel 2.52 Sherwin W. 5.15 Water 15.46 (554. / 1.50 / 2.52 / 5.15 / 15.46) -- (30.17) (71.18 - 30.17 -- \$ 41.01 current a/c owes Trust)
Nov	13	Kitchen Cabinet \$30.00 carting 3.00 -- <u>\$8.01</u>
Dec	3	Electric 5.98 Sherwin W. 3.70 8.44 McLaughlin
30	<u>1942</u>	
	Jan	3 Electric 5.98 Water 13.20 (Current a/c owes trust 8.00 from fireman overhaul)
	Jan	10 Kelvinator 1.25 Warren Supply 13.02
		14 Water 13.28
	Jan	22 Current a/c paid \$50 to Trust a/c
	Jan	23 (5.98 / 3.70 / 8.44) - 8.00 (1.25 / 1.30 / 13.28) / 50.00 (13.20)
		(23.32) / (21.81) / 50.00
		(95.13 less 8.01) -- <u>87.12</u> Trust a/c owes C/a
40	Feb	3 Whitney 4.47 Electric 6.27 Water 16.78
	"	25 Kelvinator change motor 9.36
	Feb	Chown's 72.34 Drury's 19.73 Feb. 26th Joe Sharpe 300.00
		Whitney 18.28 Drury's 2.13 ? 5.00 Anglin 6.00
	Mar	Water 15.50 Machlughlan's 10.50 (greenhouse) 5.90
	Apr	2 Electric 5.58 Drury's (12.69 - 25) - 12.44 Whitney 3.95

April 8 Kelvinator 3.25 Ap. 15th apart water bill 17.13  
 April 23 F.C. Edwards 224.82 Joseph Sharpe \$200.00 at  
 March 1st Trust a/c owes C/a - \$ 87.12 / 27.52  
 / 421.84 or \$ 596.48 / Water bill 31.45  
 April 1st 576.48 / 31.45 / 600.00 / 38.80 / 224.82 / 200.00  
 -- \$1671.55 owes C a/c  
 May 4 Electric 5.73 Water 19.93 (20) 200 taxes in apart.  
 June 1st Trust account owes Current a/c 1897.21  
 June 5th Electric 5.54 Drury 1.60 Kelvinator 5.40 Whitney  
 7.25 Chowns 4.12 Deposited \$100 to Trust a/c  
 Water 8.69 Electric 1.60 / 90¢  
 July 3 Electric 5.50  
 " 8 Sherwin Williams 8.25 Warren 9.39  
 " 13 Water 8.81  
 " 20 paid \$419.12 on apartment tax bill. (Deposited  
 \$400 to Trust a/c to pay London Life which repays  
 the \$500 cheque in trust to Ferguson for Derbyshire)  
 August 1st paid accounts for apartments 34.53 in June  
 " " " " 23.49 " July  
 " " " " taxes 419.12 in July  
 4 Light 5.15 Water 9.18 Kelvinator 2.50 (2449.70)  
 light 5.20 Water 5.64 Allen Lumber 3.50  
 Sept 2 light 5.35  
 Oct 21 paid out of C/c \$300 taxes on apartments  
 23 paid \$30.00 for carting at apart.  
 27 To cheque for plumbing supplies 49.23 - \$44.31  
 28 plumbing for apart. \$41.53. Cheque to trust a/c  
 \$50.00 Buller \$ 35.00  
 Nov 3 Light 5.49 Buller \$ 40.00 Nov 6th Buller 25.00  
 10 Water 8.44  
 Dec 2 Light 6.22 Drury's 8.00 Dec 4th Chown's \$7.80  
 10 Water 8.19  
  
1943  
 Jan 1st Trust account owes Current a/c \$3123.53  
 Jan 5 Electric 6.56 \$40.00 on Drury a/c Water 10.00  
 Jan Apartment money of \$100 Albert paid Ted Alor (?)  
 Feb Electric 6.84 Water 9.89  
 March 5th Electric 6.36 paid apartment bal \$603.40  
 10 Water 9.26 March 29th Kelvinator 1.25 Furnace  
 40 Ap 1 Electric 6.27 (Mr. Buller 35 to make 100)  
 April 13th Water 10.74  
 April 22nd Credit current account with 603.40 paid from trust  
 a/c  
 May 31 Electric 6.17 Water 19.94  
 June 10 Water 9.67 Electric 5.83 Water 9.67  
 June 12 To check to Allan \$383.38 Chown 237.32  
 July 15 Electric 5.30 Barrett 15.81 Mrs. Carson's Apart  
 12 Water 9.67



Aug 5 Electric 1.51 11.05 (July - paid Trust a/c 275  
to pay London Life  
July Water 10.30  
Sept 1st Electric 6.27 Water 10.00  
Oct Electric 5.93 Water 8.60 plumbing 174 Earl St \$13  
Nov Electric 5.73 Chown glass sets 10.36 Water 7.83  
Dec 8 Current a/c paid for plumbing Earl St. apart \$162.77  
Water 8.19 Electric 5.98

10 1944  
Jan 1st Electric 72.11 C/a owes trust \$383.38 Allan's  
Water 125.62 237.32 Chown's  
197.73 620.70  
Kelvinator 1.25 less pd T a/c 275.00  
198.98 335.70  
plumbing 128.58  
owe Trust a/c \$ 227.12

Robertson House

Dec 5 Bill Robertson \$10.00  
Mr. Armstrong 136 hours time at 30¢  
20 Jan 1st \$47.60  
2 Douglas Marshall \$50.00  
Lock for Front door \$16.36  
Kelvinator of Kingston \$375 for Fireman  
4 Cheque to D. Marshall for plumbing \$50.00  
Jan 9 D. Marshall \$27.30 for plumbing  
Jan 15th Warren Supply Co. for Furnace and fittings & con-  
necting water \$347.82  
Feb 6 Anglins 189.05 Glass & etc. Electric \$1.00  
Drury \$4.24 Sherwin & W. \$8.16  
30 Mar 1 To electric 2 months & water 3.87 Sherwin & Williams  
6.80  
Mar 12 Sherwin & W. .60  
" 31 A.R. Davidson paint 7.80  
April 7 Anglin coal 3 tons & putting on lock 31.50  
Feb 17 Electric & water 3.87  
Jan 1st Mat 2.07  
Apr 26 Armstrong \$23.00 labor  
May 2nd Utilities 1.81 Drury 11.89 -- \$ 1257.87  
May 3rd/41 Sherwin & Williams 34.30  
40 Jun 23 Earth 2.50 Utilities 1.81  
Jun 4 Sherwin & Williams 36.67 Drury 4.00 (gravel)  
June 15 Anglin (648 less 13) 6.35  
July 3 Utilities 1.81 July 5 Sherwin & W. 2.40  
July 21 Taxes 418.42 (309.70 / 98.72)  
Sept. 2 Electric 4.80 Current a/c owes Trust 9.96  
(Robertson House)  
" 10 Drury's sand 3.00 Supplies 74.34  
13 McLaglan lumber 38.12  
Sept 30 paid Marshall 8.50

Oct 1st Electric 1.81 Nov 3 Electric 1.80  
 Dec 3 Electric 1.81 Jan 3 Electric 1.80  
 Jan 10th/42 Chown 2.78  
 Feb 3 Electric 2.13 Coal  
 Coal 14360 lbs - cost 71.80 less 27 - less 244  
 March Electric 1.86  
 Apr 2nd Electric 1.86  
 May 4 Electric 1.87 May 6th Stoker coal 27.90  
 Total 1257.87 / 865.11 - \$2122.98  
 10 Jan 3 Utilities 1.00 July 2nd Utilities 1.00  
 July 8th George Nobes for toilet 23.45  
 Aug 4 Water 1.00  
 Oct 2 Utilities 5.05  
 Oct 23rd Carting Vinkle 60.00 Teamster 44.00  
 Nov 1st Water 1.00 Cr. Trust a/c 27.84 paid on Drury's bill  
 Dec 2 light 1.00 Jan 1st'43 Water 1.00  
 Jan 6th Coal 20.00 Drury's  
 " Albert paid T. Alore \$100 for decorating  
 20 Feb 6 Electric 3.85 water 1.00 deduct 100 from T a/c  
 see another page

40

44 Regent St. Barriefield

Sept 7 Gave Dwyer cheque for 1700  
 Returned \$3.68  
 Taxes Dec 15th \$18.71  
 Int on 1700 for Sept Oct Nov -- 21.25  
 Therefore Dec 1st amount is \$1721.25 less \$3.68  
 or 1717.57  
 Dec 1st paid cash \$50.00 bal -- \$1667.57 Int. for Dec  
 6.95  
 30 1667.57 / 6.95 - \$1674.57  
 Taxes 1871 / 1674.57 -- 1693.23  
 Jan 1st Cr. cash \$50 Therefore bal is \$1643.23  
 Int for Jan 6.84  
 1643.23 / 6.83 -- \$1650.07  
 Feb 6 Cr. cheque \$50.00  
 Feb 25 A. cheque 50 Mr. Tunstall  
 March 13th To insurance for 3 years - \$18.00  
 1941 Apr 1 Cr. \$220 on car sold for \$400 to J.S. Tunstall.  
 Cr. instal on house for March  
 40 May 2 Cr. cheque 50.00 on house  
 June 4 cheque 50.00 " "  
 July 4 Cheque 50.00 " "  
 Aug 5 " 25.00  
 Sept 12 cheque 50  
 Oct 1 cheque \$ 50  
 Nov 3 " 50  
 Dec 3rd Taxes \$20.59  
 " 3 Cheque 50.00

42	Jan	13	Cheque	75.00
	Feb	14	"	50.00
	Mar	9	"	50.00
	Ap	8	cheque	50.00
	May	5	"	50
	June	26	cheque	25
	July	14	"	25.00
	Aug	5	"	25
	Sept	4th	cheque	25
10	Oct.	19	"	25
	Nov	4	"	50
	Dec	12	paid taxes	21.65
	Dec	16	cheque	50.00

1943

	Jan.	6	cheque	75.00
	"	9	"	75.00
	Mar	1st	-----	75.00
	Ap	2	cheque	75.00
	May	7	cheque	100
20	June	20	"	100
	July	2	"	100
	Aug	5	"	100
	Aug	31	-----	110

Revenue Robertson House

	June		
	July	65	Matheson
	Aug	65	"
	Aug	23	125 Dr. P.W. Heeni
	Sept	7	65 Matheson
30	Sept	20th	Dr. Heeni 125
	Oct	8	Dr. Matheson 65
	Nov	3	Dr. Matheson 65.00
	Nov	15	Dr. Heeni 250 (for October)
	Dec	1	Mrs. Mills rent (125 / 244)
	Dec	8	Dr. Matheson 65.00
	Jan	10	For Dec 125.00 Dr. Heenie

44

		Jan 1st					
		Jan	Feb	Mar	April	May	June
40	Mrs M	125	125	120	120	120	120
	Dr. Heenie	125	-	300	-		
	Dr. Matheson	65	65	65	65	65	65
		July	Aug	Sept	Oct	Nov	Dec
	Matheson	65	65	65	65	65	
	Mills	125	120	120	120	120	

Heenni paul M. Aug 11th/44 \$420 paid  
 To Oct 12th To Dec 1st \$175 105

1945

Jan	1st	Mrs Mills	120	Heeni	105	Matheson	65
Feb	1st	"	120	"	105	"	65 -
Mar	"		120		105		65 -
April			120		105		65 55
May			120		105		- 55
June			90		105		- 55
July			120		105		65 55

		Dr. Heeni	Mrs Mills	Sloan	Matheson	
10	Aug	1st	105	120	55	-
	Sept		105	120	55	65
	Oct		105	120	55	-
	Nov	1st	105	120	55	65
	Dec	1st	105	120	55	65
	<u>1946</u>		105	120	55	65

Robertson House Continued

	March	5th	Electric & water \$2.54			
		31	Electric 2.22			
	May	3	Electric 2.84			
20	Aug	5	Electric 7.17	water 2.00		
	Sept		Electric 2.07			
	Oct		Electric 1.61	water 2.15		
	Nov	1	Electric 2.78	\$3.15 water	Supplementary taxes	
				\$29.00	(Nov 1st)	
	Dec	1	Electric 2.78	water 2.87		
	<u>44</u>					
	Jan		Electric 3.53	water 3.04		
	Feb	3	Electric 3.64	water 3.65		
	Mar	6th	Electric 3.40	water 3.48		
30	Apr	1st	Electric 3.32	water 3.45		
	May	1st	Electric 2.93	water 3.62		
	June	1st	Electric 1.38	(Mrs. Matheson Refrig. 1.25)	water 3.55 Chowns 35.50 paint	
	July	1st	Electric .81	2 trees out 12.00	/ 30.00 wiring for Mrs. Mills 17.80 water 3.89 Lumber for garage 22.49 carpenter	
	Aug	1st	Electric 81¢	Kelvinator 59.57	water 3.24 Remove ashes 8.20	
	Sept.		Electric 85	water 3.90		
40	Oct		Electric 85	(October cellar lights 2.50	Electrician) water 3.45 Heenie apart. 2.80 Edwards Miss Matheson 3.25 Refrig.	
		28	Matheson Refrig. 10.45	carting soil 39.25		
	Nov	1st	Electric 1.38	water 3.20		
	Dec	1st	Electric 1.69	Kelvinator 1.25	sand 12.50 water 3.01	
			Dick Laidlaws 12.60			
	Jan		Electric 2.86	painting \$35.00	T. Allore water 5.66	

Earl St. Apartments 1944

	Jan		Electric 6.76	Water 8.24	
	Feb.		" 8.27	" 8.05	20 pounds wax 5.60
	"	25th	Gave Albert 40.00 to pay labor at apart.		
	March		Electric 6.08	Water 7.92	
	April		Electric 6.12	Water 7.92	
	May	1st	Electric 6.05	Water 8.23	
			Kelvinator 1.25		
10	June	1st	Electric 5.88	Kelvinator apart. 41.25)	Kelvinator 17.25
	July				
	Aug	1st	Electric 5.54	Water 8.91	Door 6.75
	Sept		Electric 6.17	paper 12.96	Water 7.70
			apart insurance 56.12 Soanes ?		
	Sept	28	Kelvinator 172 (1.25)		
	Oct		cement Drury 10.85	Electric 16.12	Electric 172 Earl
			Refrig 1.50		
			Water 5.27 Repairs to Carson stove \$11.50		
20			Refrigerator apart 8 (8.25) (Hall 49.70 Edwards)		
			Apart 8		
	June	1st	Electric 7.29	Sherwin W. paper 7.02	
			Cheque to Whitney 14.52 ? Friendship 14.48		
			Water 7.81		
	Dec	1st	Electric 7.58	Water 8.25	Kelvinator (7.25 Crawford)
	Jan	1st	Electric 8.26	Apart 8 7.23	Water 8.85

Earl St. Apartments 1945

	Jan,	31st	Electric 8.98		
	Mar	1	Electric 8.26	Kelvinator 2.25	Removal of ashes 10.00
30	Mar	1st	Water 24.82	(2 months) Whitney linoleum 31.83	
			Refrigerator (Morton) 5.25		
	April	2	Light 6.46	Drury's cement 3.42	water 13.64 Abramskey 8.51
			coco matting water 13.64 Chown's paints 12.55		
	May	1st	Electric 6.70	shrubs (Hedge) (16/ 53 - 16.55)	
		10	Chown's \$11.82 supplies Water 11.99		
	June		Electric 5.73	Water 0	3 tons coal 27.00 cases
			Drury 1.60		
			Chowns 18.69 Kelvinator 1.25		
	July		Electric 5.73	Drury 1.60	
40			work on hot water stoker (10) Chowns 13.83		
			water 23.20	Barrett 2.70 (sink)	Drury 1.60
			Barrett \$10.39		
			Drury's April 2½ tons coal \$22.50 Shingles \$72.50		
			May 2 bags cement 1.60 ( July) 3.55 / 4.50)		
			June Chowns 1.00 July 4 Allan 7.25		
	Aug	1st	Electric 5.68	Crawford apart Kelvinator 1.25	
			Drury 8.05	water 10.85	Machlaughlin 91.75 Edwards 82.47
			Chowns (28.98 less 3.60) 25.38 (lumber)		
			Allan's shingles 29.00 Aug 29 Kelvinator 8.85 (?)		
			powell (Electric 9.60 rep)		

Sept Electric 5.76 Drury's for garage roof 62.50  
 Edwards 96.03 Kelvinator \$73.43 (Refrig.  
 Rolland 1.85)  
 Apart 8 6.75 64.83 stoker Chowns 17.24  
 Water 8.91 Kelvinator 6.50 Barrett 252.82  
 Ted Allore painting & eaves trough 68.00  
 Oct 1 Light 5.85 Drury 14.82 Barrett 4.67 Barrett  
 4.57 Chown's 13.12 Water 11.68 T. Allore  
 132.70 Whitney 15.00 Sherwin Williams 31.28  
 10 Nov 1st Electric 6.35 Drury's 10.85 pollett 1.50  
 Chown's 29.71 Water 6.97 ashes 3.00

Earl St. Apartments

Jan 5 Jack \$25.00 (12) Jack 20.00 water \$14.00  
 Hughes 25¢  
 Jan. 17 Jack 25.00 Stamps 4.56  
 Sept & Oct Electric 81 / 81 Apart 2

Robertson H /45

Jan 31st Electric 3.32 water 4.43 Cotton Laidlaw's 14.40  
 Queens taxi drilling iron 1.50  
 20 March 1 Electric 2.63 Drury 3.26 Kelvinator 1.25  
 Dr. Matheson water 3.60 Matheson refrig. 1.25  
 Refrigerator for basement (200 / 2) removes  
 lumber 2.00  
 April Electric 1.34 water 3.46 changing thermost 5.64  
 May 1st Electric 1.81 shrubs \$16.55  
 15 carting 1.00 Johnson Chowns 46¢ sundries  
 water 3.76 2 doors Anglins 3.25  
 June 1st Light 1.57 water 5.05  
 30 Drury's 3 tons coal 27.80 cement 1.60  
 lumber Allan's 2.10 Anglins' lumber 20.52  
 Edwards 46.88 Chowns 9.21 MacLachlan 22.80  
 Mrs. Mills decorating \$40.00  
 July 5 Drury 60 Electric 94¢ water 4.27 Machlaughlin  
 4.12 Allan's 56¢ Heenni apart 66.79  
 Aug 12 Kelvinator 10.00 Electric 81¢ water 1.46  
 Sept Electric 94¢ water 4.35  
 Oct Utilities 87 water 4.47  
 Nov 1st Electric 1.29 water 2.39  
 Dec 1 Electric 1.34 water 3.95 Refrigerator 82.33  
 40 Jan 2nd Barrett 127.48 Electric 1.86 water 4.61  
 glass 46¢

Robertson House

Oct 1 To 3 refrigerators 249 747  
 17 Removes earth with team 44  
 plumbing supplies \$20 cash / 92.98 112.98  
 Nov. 1 40 bags cement 28.40 Frontenac Quarries 5.55

Nov Mr. Harpell for cutting lawn 18.00  
 Dec 14 F.O. Edwards bath tub 30.50  
 Jan 1 Iron Fireman 6.80 Albert gave T. Allore \$100  
 Jan 1 W.F. Nickle 52.23 Feb 9th 29.79  
 (In reckoning the cost of Robertson house to date  
 we should count int. in purchase price as well as  
 money spent on repairs & etc.)  
 Feb 12th \$127.97 March 11th \$ 518.45 Edwards Allans 129.73

Earl St. Apartments 1945

10 Nov 30 Eave troughs on garage 10.20 troughes 8.50  
 ? for Mrs. Crawford Kelvinator 1.30  
 Dec 7 Electric 6.55 Drury 7.10 (Cement) stone \$5.25  
 Kelvinator Iron Fireman 33.00 water 1.15 Anglins  
 coal 194.75 Chowns 17.96 supplies  
 Dec 31 174 Earl to Kelvinator 6.75 Miss Roche Refrig.  
 Jan 2 Electric 7.19 Dec. 29 Jack Hewitt 25.00  
 Mrs. Artley 2.00  
 Oct 20 Whitney's Blinds \$13.25 Chown's 7.06 water 14.00

20 Edwards 84.05 / 440.79  
 Barrett 7.80  
 Allans 95.47  
 Peters 191.45 / 64.60 / 38.89  
 Chowns 54.18, 85.69  
 Drury 6.50 15.82  
 McLachlan  
 Halliday 75.00  
 Warren  
 Marker 120.  
 T. Allore \$ 20.00

IN THE SUPREME COURT OF ONTARIO

Glover v. Glover

THIS EXHIBIT the property of D  
is produced by the D this 20  
day of February 1947

C.H. Wood  
Clerk of Assize

6¢

S T A M P

( CHEQUE )

Kingston, Ont. Sept. 24th 1945. No.....

TO THE BANK OF MONTREAL ( 1 )  
( I6 )

Pay to the Order of A. Glover \$ 500.00  
Five Hundred  $\frac{xx}{100}$  Dollars

Special a/c W. R. Glover

SGD. "Albert Glover"

THE BANK OF NOVA SCOTIA

2 THIRD TELLER  
I6 OCT 11 1945  
Kingston, Ontario.



1st Page  
Form 183-Agreement Extending  
Time  
Under a Mortgage (Printed  
May 1941)

IN THE SUPREME COURT OF ONTARIO  
Glover vs. Glover  
THIS EXHIBIT, the property of  
...D.....  
is produced by the  
...P..this 20 day of Feb. 1947

SGD, "C. H. WOOD"  
Clerk of Assize

10 AGREEMENT made, in duplicate, the 15th day of June, one  
thousand nine hundred and forty-four.

BETWEEN

WILLIAM R. GLOVER, of the City of Kingston, in the  
County of Frontenac, Dentist,  
hereinafter called the Party

OF THE FIRST PART

-AND-

ALBERT GLOVER, of the said City of Kingston,  
Retired Grocer,  
hereinafter called the Party

OF THE SECOND PART

20

30

WHEREAS by a mortgage dated the 11th day of July  
1938, and registered in the Registry Office for the Registry  
Division of Kingston & Frontenac on the 11th day of July, 1938,  
as No. 51941, ALBERT GLOVER, of the City of Kingston, Grocer,  
did grant and mortgage all that certain parcel or tract of land  
and premises situate lying and being in the City of Kingston,  
in the County of Frontenac, and being composed of Part of Farm  
Lot no. 25 in the First Concession of the Township of Kingston  
formerly, now the said City of Kingston, and being that part of  
what was formerly known as the Grammar School grounds, lying  
between Clergy, Earl and West Streets, leased by the Trustees  
of the Kingston County Grammar School to one, Samuel Woods by  
Indenture of Lease, dated December 24th, 1870 and registered in  
the Registry Office for the City of Kingston on March 5th, 1880  
as No. 1509, which land hereby conveyed may be more completely  
described as follows:

40

COMMENCING at a point where the Northern Wall of  
the Frontenac County Gaol, or its production Easterly intersects  
the Westerly limit of West Street; thence Westerly along said  
wall one hundred feet six inches ( 100'6 ) more or less, to a  
line fence; thence Northerly along said line fence and its  
production to a point in the Southerly limit of Clergy Street  
distant sixty-nine feet four inches ( 69'4" ) more or less from  
the Westerly limit of Earl Street; thence Easterly along said  
Southerly limit of Clergy Street to a point where said limit  
intersects the said Westerly limit of Earl Street; thence South-  
erly along the Westerly limit of Earl Street and Clergy Streets  
to the place of beginning.

No. 2 UNTO WILLIAM R. GLOVER, of the said City of Kingston, Dentist, to secure the payment of FIFTEEN THOUSAND... ( \$15,000.00 ). dollars and interest as therein set forth.

mortgage  
has been  
assigned  
recite  
particulars  
10 here.

AND WHEREAS there is now owing on and secured by the said mortgage for principal the sum of FIFTEEN THOUSAND..(\$15,000.00) dollars, with interest at five (5%) per cent. per annum from the first day of July, 1938.

20 AND WHEREAS the party of the Second Part, claiming now to be the owner of the equity of redemption in the said lands subject to the said mortgage, has applied to the party of the First Part to alter the terms of payment of the said mortgage moneys, which the party of the First part has agreed to do upon the terms and conditions hereinafter set forth.

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises and of the sum of one dollar to him paid by the party of the Second Part, he, the said party of the First Part, hereby agrees that the said sum of..NINETEEN THOUSAND, FIVE HUNDRED....(\$19,500.00) ....shall be payable as follows:

30 \$500.00 of the said principal sum with interest accrued on the 1st days of January and July in each of the years 1945-46-47 and 1948.

\$500.00 on the 1st day of January, 1949, and the balance of the principal amount together with all accruals of interest on the 1st day of July, 1949.

40 together with interest thereon from first day of July, 1944, as well after as before maturity and both before and after default, at the rate of three(3%) per cent. per annum, payable half yearly on the 1st days of January and July in each year until the said principal is fully paid, the first of such payments of interest to become payable on the 1st day of January 1945, arrears of both principal and interest to bear at the rate last above mentioned, and such interest on arrears to be a charge upon the said lands.

No. 3

The party of the Second Part hereby covenants with the party of the First Part to pay the said principal money and interest at the rate and in the manner hereinbefore set forth.

10

AND IT IS DECLARED AND AGREED that the said mortgage and all covenants, clauses, provisos, powers, matters and things whatsoever contained therein shall continue in force and applicable to the said amount and dates and altered terms of payment herein contained, but that there shall be no right of premature repayment except as herein mentioned, and any statutory right in that behalf shall take effect as if the said mortgage had been dated on the date of this agreement.

20

PROVIDED however that these presents shall not create any merger or alter or prejudice the rights of the mortgagee as regards any security collateral to the said mortgage, or as regards any surety or subsequent incumbrancer or any person not a party hereto liable to pay the said mortgage money or interested in the said lands, or the rights of any such surety, subsequent incumbrancer or other person, all of which rights are hereby reserved.

THIS AGREEMENT and everything herein contained shall ensure to the benefit of and be binding upon the heirs, executors, administrators and assigns of the parties hereto, respectively.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

30

SIGNED, SEALED, AND DELIVERED )

IN THE PRESENCE OF )

SGD. "HELEN PARENT" )

SGD. "ALBERT GLOVER  
(Seal)

SGD. "WILLIAM R. GLOVER  
(Seal)

No. 4 PROVINCE OF ONTARIO ) I, Helen Parent,  
COUNTY ) of the City of Kingston,  
OF ) in the County of Frontenac,  
FRONTENAC ) Stenographer, make oath and say:

10

1. THAT I was personally present and did see the within instrument and a Duplicate thereof duly signed, sealed and executed by

ALBERT GLOVER -and- WILLIAM R. GLOVER

the parties thereto.

2. THAT the said Instrument and Duplicate were executed by the said parties at the City of Kingston.
3. THAT I know the said parties.
4. THAT I am a subscribing witness to the said Instrument and Duplicate.

20

SWORN before me at the City )  
of Kingston, )

in the County )

SGD. "HELEN PARENT"

of Frontenac )

this 15th )

day of June, )

1944 )

SGD. " WILLIAM O. DWYER"  
A Commissioner, etc.

WILLIAM R. GLOVER

TO

ALBERT GLOVER

Address 174 Earl Street,  
KINGSTON, Ontario.

A G R E E M E N T

EXTENDING TIME UNDER A MORTGAGE

W. O. DWYER,  
Barrister, &c.,  
KINGSTON, Ont.

IN THE SUPREME COURT OF ONTARIO  
Glover v. Glover  
THIS EXHIBIT, the property of  
P is produced by the P this  
21 day of February 1947

C.H. Wood  
Clerk of Assize

DISCHARGE OF MORTGAGE

TO THE REGISTRAR OF THE REGISTRY DIVISION OF KINGSTON AND FRONTENAC

10 I, William R. Glover of the City of Kingston in the County of Frontenac.

DO CERTIFY THAT Albert Glover has satisfied all money due on, or to grow due on, a certain Mortgage made by the said Albert Glover to Me, William R. Glover which Mortgage bears date the First day of January, 1927, and was registered in the Registry Office for the Registry Division of Kingston and Frontenac on the 23rd day of August, 1928, at 39 minutes past One 1'clock in the afternoon, in Book 48 for the City of Kingston as number 44453.

20 And that such Mortgage has not been assigned  
And that I am the person entitled by law to receive the money.  
And that such Mortgage is therefore discharged.

Witness my hand this        day of July 1931.

Witness                                )

B.E. WEBSTER                        )                        Wm. R. Glover

County of Frontenac                ) I, BENJAMIN EDWARD WEBSTER  
  ) in the City of Kingston of the County  
TO WIT:                                ) of Frontenac, Esquire,  
  ) make oath and say:

30 1. That I was personally present and did see the within Discharge of Mortgage duly signed and executed by William R. Glover the party thereto.

2. That the said instrument was executed by the said party at the City of Kingston.

3. That I know the said party.

4. That I am a subscribing witness to the said instrument.

SWORN before me at the City of        )  
Kingston in the County of Frontenac )                        B.E. WEBSTER  
this 15th day of July 1931.            )

40 S. ROUGHTON J.P.  
in and for the County of Frontenac.

IN THE SUPREME COURT OF ONTARIO  
Glover v. Glover  
THIS EXHIBIT the property of  
P is produced by the P this  
21 day of February 1947

C.H. Wood  
Clerk Assize

-2-

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC

I HEREBY CERTIFY that the above is a true copy of the instrument  
10 as registered in this office in Book 50 for the City of Kingston  
at 2.37 o'clock P.M. of the 15th day of July, A.D. 1931 as  
Number 47142.

GIVEN under my hand and seal of office this 21st day of  
February A.D. 1947.

"W.J. Gibson"

REGISTRAR OF DEEDS.

IN THE SUPREME COURT OF ONTARIO  
Glover vs. Glover  
THIS EXHIBIT, the property of  
P is produced by P this 21  
day of February 1947

C.H. Wood  
Clerk of Assize

TO THE REGISTRAR OF THE REGISTRY DIVISION OF Kingston and Frontenac

10 We, William R. Glover and Robert J. Glover of the City of Kingston  
and Camden East Respectively in the county of Frontenac DO. Certify  
That ALBERT GLOVER Has satisfied all money due on or to grow due  
on a certain Mortgage made by the said Albert Glover to William  
R. Glover and Robert J. Glover

which Mortgage bears date the First day of July 1931 and was  
registered in the Registry Office for the Registry Division of  
Kingston and Frontenac on the 15th day of July 1931 at 35  
Minutes past Two o'clock in the afternoon in Book 50 for the  
City of Kingston as Number 47141

20 And that such Mortgage has not been assigned,  
And that We are the persons entitled by law to receive the money  
that such Mortgage is therefore discharged. Witness Our hands  
this 11th day of July 1938

Witness

Maude Yeomans

ROBERT GLOVER

W.R. GLOVER

County of Frontenac to Wit: I, Maude Yeomans of the Township  
of Ernestown in the County of Lennox Married Woman make oath  
and say:

30 1. That I was personally present and did see the within Discharge  
of Mortgage duly signed and executed by William R. Glover and  
Robert J. Glover parties thereto

2. That the said instrument was executed by the said parties  
at the City of Kingston by William R. Glover and Camden East  
by of Robert J. Glover.

3. That I know the said parties.

4. That I am a subscribing witness to the said instrument.

SWORN before me at the City of Kingston in the County of Frontenac  
this 11th day of July 1938.

T.J. Glover

Maude Yeomans

40 A Commissioner, Etc.

IN THE SUPREME COURT OF ONTARIO  
Glover vs. Glover  
THIS EXHIBIT, the property of P  
is produced by P this 21 day  
of February, 1947.

C.H. Wood,  
Clerk of Assize

-2-

ONTARIO REGISTRY DIVISION OF KINGSTON AND FRONTENAC

I HEREBY CERTIFY That the above page of Typewriting "W.J.G."  
10 is a true copy of the instrument as registered in this office  
in Book 53 for the City of Kingston at 11.41 o'clock A.M. of  
the 11th day of July A. D. 1938. As Number 51942  
GIVEN UNDER my hand and seal of office this 21st day February  
A. D. 1947.

S E A L

REGISTRAR OF DEEDS

" W.J. Gibson "



IN THE SUPREME COURT OF ONTARIO

GLOVER vs. GLOVER

THIS EXHIBIT, the property of D.,  
is produced by D., this 21st day  
of February, 1947.

"C. H. WOOD"

Clerk of Assize

DR. W. R. GLOVER RE ALBERT GLOVER

14th SEPTEMBER 1920-to-29th JULY 1944.

JOHN A. PARTRIDGE

Chartered Accountant

Kingston, Ontario.

DR. W. R. GLOVER

STATEMENT OF REVENUE AND EXPENDITURE RE ALBERT GLOVER  
For the Period 14th September 1920-to-29th July 1944.

REVENUE

Excess income over expenditures re apartments	\$ 7233.11
Dr. W. R. Glover	59941.70
	<hr/>
	\$ 67174.81
	<hr/> <hr/>

10

EXPENDITURE

Mortgage principal	\$ 11843.01
Bank of Toronto Loan	8502.48
A. Glover	647.85
Advance re purchase of store	12150.00
Advance re stock in store	100.00
Interest	20431.47
Mortgage principal outstanding	13500.00
	<hr/>
	\$ 67174.81
	<hr/> <hr/>

20

DR. W. R. GLOVER

(b)

Operating Statement - Glover Apartments

For the period 17th April 1935-to-29th July 1944.

RECEIPTS

Rental Income		\$ 55685.82
Insurance Claim	.	<u>8920.13</u>
Total Income		\$ 64605.95

DISBURSEMENTS

Repairs and Replacements	\$	17793.88	
10 Mortgage Interest		10498.58	
Bank Interest and Charges		1723.78	
Insurance		657.56	
Heat, light and water		13053.18	
Taxes		13645.86	
Loan Interest		<u>207.88</u>	
Total Disbursements	\$	<u>57580.72</u>	
Excess receipts over Disbursements	\$	<u>7025.23</u>	
Excess receipts over disbursements as above	\$	7025.23	
20 Loan interest charges in error 1939	\$	37.98	
		1940	58.04
		1941	29.28
		1943	37.99
		1944	<u>44.59</u>
			<u>207.88</u>
Excess receipts over disbursements	\$	7233.11	

DR. W. R. GLOVER

(c)

Operating Statement - Glover Apartments

For the period 17th April 1935 -to- 31st December 1935

RECEIPTS

Rental Income \$ 3730.00

DISBURSEMENTS

Mortgage Interest - 1935 \$ 1487.48

Bank Interest and charges 36.16

Insurance 103.75

10 Heat, light and Water 1194.14

Taxes - 1935 1761.42

Total Disbursements 4582.95

Excess disbursements over receipts \$ 852.95

Summary of Receipts and Disbursements re Glover Apts.

For the period 17th April 1935 -to- 31st December 1935.

RECEIPTS

Rental Income \$ 3730.00

Bank Loan 1300.00

20 Dr. W. R. Glover 3944.97

Total \$ 8974.97

DISBURSEMENTS

Expenses as above \$ 4582.95

Mortgage principal 2844.84

Bank loan principal 500.00

Dr. W. R. Glover 245.50

A. Glover 247.85 8421.14

Bank balance 31/12/35 553.83

Total \$ 8974.97

DR. W. R. GLOVER

(d)

Operating Statement - Glover Apartments.

For the year ended 31st December 1936.

RECEIPTS

Rental Income \$ 5446.33

DISBURSEMENTS

Repairs and replacements \$ 717.77

Mortgage interest 1334.90

Bank interest and charges 13.60

10 Insurance 50.00

Heat, light and Water 974.09

Taxes 1652.96

Total disbursements 4743.32

Excess receipts over disbursements \$ 703.01

Summary of Receipts and Disbursements re Glover Apts.

For the year ended 31st December 1936.

RECEIPTS

Bank balance - 1/1/36 \$ 553.83

20 Rental income 5446.33

Bank loan 800.00

Dr. W. R. Glover 50.00

Total \$ 6850.16

DISBURSEMENTS

Expenses as above \$ 4743.32

Mortgage principal 1000.00

Dr. W. R. Glover 476.51

Bank balance 31/12/36 630.33

Total \$ 6850.16

DR. W. R. GLOVER

(e)

Operating Statement - Glover Apartments.

For the year ended 31st December 1937

RECEIPTS

Rental income \$ 5591.82

DISBURSEMENTS

Repairs and replacements \$ 81.00

Mortgage interest 1222.45

Bank interest and charges 43.40

10 Insurance 50.00

Heat, light and water 1213.83

Taxes 1608.70

Total disbursements 4219.38

Excess receipts over disbursements \$ 1372.44

Summary of Receipts and Disbursements re  
Glover Apartments.

For the year ended 31st December 1937.

RECEIPTS

20 Bank Balance - 1/1/37 \$ 630.33

Rental Income 5591.82

Dr. W. R. Glover 1113.13

Total \$ 7335.28

DISBURSEMENTS

Expenses as above \$ 4219.38

Mortgage principal 998.17

Bank loan principal 400.00

Dr. W. R. Glover 1284.35

Bank balance 31/12/37 433.38

30 Total \$ 7335.28

DR. W. R. GLOVER

(f)

Operating Statement - Glover Apartments.

For the year ended 31st December 1938.

RECEIPTS

Rental Income \$ 4961.81

DISBURSEMENTS

Repairs and replacements \$ 1594.73

Mortgage interest 1113.75

Bank interest and charges 85.35

10 Insurance 99.38

Heat, light and water 1236.32

Taxes 1544.73

Total disbursements 5674.26

Excess disbursements over receipts \$ 712.45

Summary of Receipts and Disbursements re Glover Apts.

For the year ended 31st December 1938.

RECEIPTS

Bank balance 1/1/38 \$ 433.38

20 Rental Income 4961.81

Bank loan 1400.00

Dr. W. R. Glover 1111.99

Total \$ 7907.18

DISBURSEMENTS

Expenses as above \$ 5674.26

Mortgage principal 1000.00

Dr. W. R. Glover 1034.80

Bank balance 31/12/38 198.12

Total \$ 7907.18

DR. W. R. GLOVER

(g)

Operating Statement - Glover Apartments

For the year ended 31st December 1939

RECEIPTS

Rental income \$ 5207.86

DISBURSEMENTS

Repairs and replacements	\$ 2655.57
Mortgage interest	1058.75
Bank interest and charges	129.15
10 Insurance	50.00
Heat, light and water	1059.23
Taxes	1350.18
Loan Interest	<u>37.98</u>
Total Disbursements	<u>6340.86</u>
Excess disbursements over receipts	\$ <u>1133.00</u>

Summary of Receipts and Disbursements re Glover Apts.

For the year ended 31st December 1939.

RECEIPTS

20 Bank balance 1/1/39	\$ 198.12
Rental income	5207.86
Bank loan	800.00
Dr. W. R. Glover	<u>2675.90</u>
Total	\$ <u>8881.88</u>

DISBURSEMENTS

Expenses as above	\$ 6340.86
Mortgage principal	1000.00
Bank loan principal	466.69
Dr. W. R. Glover	669.95
30 Bank balance 31/12/39	<u>404.38</u>
Total	\$ <u>8881.88</u>



DR. W. R. GLOVER

(h)

Operating Statement - Glover Apartments.

For the year ended 31st December 1940.

RECEIPTS

Rental income		\$ 6631.00
	<u>DISBURSEMENTS</u>	
Repairs and replacements	\$	747.27
Mortgage interest		1003.75
Bank interest and charges		162.40
10 Insurance		51.22
Heat, light and water		1928.26
Taxes		1267.08
Loan interest		<u>58.04</u>
Total		<u>5218.02</u>
Excess receipts over disbursements	\$	<u>1412.98</u>

Summary of Receipts and Disbursements re Glover Apts.

For the year ended 31st December 1940.

	<u>RECEIPTS</u>	
20 Bank balance 1/1/40	\$	404.38
Rental income		6631.00
Dr. W. R. Glover		<u>2453.45</u>
Total		<u>\$ 9488.83</u>

	<u>DISBURSEMENTS</u>	
Expenses as above	\$	5218.02
Mortgage principal		1000.00
Bank loan principal		333.31
Dr. W. R. Glover		1778.62
Loan Principal		501.97
30 Bank balance 31/12/40		<u>656.91</u>
Total	\$	<u>9488.83</u>

DR. W. R. GLOVER

(1)

Operating Statement - Glover Apts.

For the year ended 31st Dec. 1941.

RECEIPTS

Rental income \$ 7030.00

DISBURSEMENTS

Repairs and replacements	\$ 1098.11
Mortgage interest	948.75
Bank interest and charges	293.70
10 Insurance	103.00
Heat, light and water	1332.21
Taxes	1175.23
Loan interest	<u>29.28</u>
Total disbursements	<u>4980.28</u>
Excess receipts over disbursements	\$ 2049.72

Summary of Receipts and Disbursements re Glover Apts.

For the year ended 31st December 1941.

RECEIPTS

20 Bank balance 1/1/41	\$ 656.91
Rental income	7030.00
Dr. W. R. Glover	<u>1481.82</u>
Total	<u>\$ 9168.73</u>

DISBURSEMENTS

Expenses as above	\$ 4980.28
Mortgage principal	1000.00
Bank loan principal	300.00
Dr. W. R. Glover	1486.04
Loan principal	498.03
30 Bank balance 31/12/41	<u>904.38</u>
Total	<u>\$ 9168.73</u>

DR. W. R. GLOVER

(j)

Operating Statement - Glover Apartments.

For the year ended December 31st 1942.

RECEIPTS

Rental income \$ 7104.00

DISBURSEMENTS

Repairs and replacements \$ 5450.28

Mortgage interest 853.75

Bank interest and charges 309.50

10 Insurance -

Heat, light and water 1627.16

Taxes 1156.35

Total Disbursements 9397.04

Excess disbursements over receipts \$ 2293.04

Summary of Receipts and Disbursements re Glover Apartments.

For the year ended 31st December 1942.

RECEIPTS

Bank balance 1/1/42 \$ 904.38

Rental income 7104.00

20 Dr. W. R. Glover 3437.75

Total \$ 11446.13

DISBURSEMENTS

Expenses as above \$ 9397.04

Mortgage principal 1000.00

Dr. W. R. Glover 500.00

Bank balance 31/12/42 549.09

Total \$ 11446.13

DR. W. R. GLOVER

(k)

Operating Statement - Glover Apartments.

For the year ended 31st December 1943.

RECEIPTS

Rental income \$ 6460.00

DISBURSEMENTS

Repairs and replacements \$ 1703.12

Mortgage interest 762.50

Bank interest and charges 436.61

10 Insurance 52.34

Heat, light and water 1274.71

Taxes 983.90

Loan interest 37.99

Total disbursements 5251.17

Excess receipts over disbursements \$ 1208.83

Summary of Receipts and Disbursements re Glover Apartments.

For the year ended 31st December 1943.

RECEIPTS

20 Bank balance 1/1/43 \$ 549.09

Rental income 6460.00

Dr. W. R. Glover 3681.13

Total \$ 10690.22

DISBURSEMENTS

Expenses as above \$ 5251.17

Mortgage principal 1000.00

Dr. W. R. Glover 803.40

Loan principal 2500.00

Bank balance 31/12/43 1135.65

30 Total \$ 10690.22

DR. W. R. GLOVER

(1)

Operating Statement - Glover Apartments.

For the Period 1st January 1944 -to- 29th July 1944.

		<u>RECEIPTS</u>	
	Rental income	\$	3523.00
	Insurance claim		<u>8920.13</u>
	Total receipts		\$ 12443.13
		<u>DISBURSEMENTS</u>	
	Repairs and replacements	\$	3746.03
10	Mortgage interest		712.50
	Bank interest and charges		213.91
	Insurance		97.87
	Heat, light and water		1213.23
	Taxes		1145.31
	Loan interest		<u>44.59</u>
	Total disbursements		<u>7173.44</u>
	Excess receipts over disbursements	\$	<u>5269.69</u>

Summary of Receipts and Disbursements re Glover Apartments.

20 For the Period 1st January 1944 to 29th July 1944.

		<u>RECEIPTS</u>	
	Bank balance 1/1/44	\$	1135.65
	Rental income		3523.00
	Insurance Claim		8920.13
	Dr. W. R. Glover		<u>1667.47</u>
	Total		\$ <u>15246.25</u>
		<u>DISBURSEMENTS</u>	
	Expenses as above	\$	7173.44
	Mortgage principal		1000.00
30	Bank loan principal		4000.00
	Dr. W. R. Glover		544.59
	Loan principal		1000.00
	Bank balance 31/12/44		<u>1528.22</u>
	Total		\$ <u>15246.25</u>

PART IV - JUDGMENTS AND REASONS FOR JUDGMENT

IN THE SUPREME COURT OF ONTARIO

THE HONOURABLE MR. JUSTICE LeBEL ) Saturday, the 14th day of June,  
) A.D. 1947.

BETWEEN:

EVELYN GLOVER

Plaintiff,

-and-

WILLIAM R. GLOVER

Defendant.

10

THIS ACTION coming on for trial on the 19th day of February, A.D. 1947, at the sittings holden at Kingston, for the trial of actions without a jury, in the presence of Counsel for all parties, upon hearing read the pleadings and hearing the evidence adduced, and what was alleged by counsel aforesaid, this Court was pleased to direct this action to stand over for judgment and the same coming on this day for judgment.

1. THIS COURT DOTH DECLARE that the Quit Claim Deed from Albert Glover and the Plaintiff to the Defendant dated July 29th, 1944, and registered on January 19th, 1946, in the Registry Office for the Registry Division of Kingston and Frontenac as No. 61005, is fraudulent and void and should be set aside and the registration thereof cancelled and vacated and doth order and adjudge the same accordingly.

2. AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that an accounting by the Defendant of the rents and profits of the premises in question in this action, and being Numbers 170, 172 and 174 Earl Street and the buildings in connection therewith from and after the 1st of May, 1935, is hereby reserved.

30 3. AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that the Plaintiff do recover from the Defendant her costs of this action up to and inclusive of this Judgment forthwith after taxation thereof.

JUDGMENT signed this 19th day of November, 1947.

Entered in Judgment Book at folio  
No. 537 this 19th day of Nov., 1947.

"C. H. Wood"

Local Registrar S.C.O.

"C. H. Wood"

Local Registrar, S.C.O.



Early in 1935 Albert Glover fell into arrears with respect to the first mortgage and the defendant swore that at the time he advanced \$3,000.00 to the London Life Assurance Company. He said he had also paid \$1600.00 on account of taxes a year or two before so that after he intervened in the difficulty over the Insurance Company's first mortgage Albert Glover had actually owed him \$39,100. On April 15, 1935, Robert J. Glover assigned his interest in the second mortgage to the defendant and the defendant related that about that time Albert Glover had agreed to turn over the apart-  
10 ments' rents and did thereafter turn over to him every month the cheques he received from the tenants of the two buildings except a few which he retained with the defendant's consent to cover his own living expenses. According to the arrangement the defendant was to make all payments on account of the mortgages, taxes, insurance, repairs, etc., out of the rent monies he received. The defendant opened a trust account in his bank wherein he said he deposited the cheques he received from his brother. He also made the necessary disbursements on account of the properties from this account. Some-  
20 times there was not sufficient money for this purpose in the trust account, he swore, and he had been obliged on several occasions to deposit monies of his own. Also, at times he had made withdrawals from the trust account for his own purposes but these had always been put back he said. The bank passbook used in connection with the trust account was not put in in evidence, but the defendant produced two books of account which he kept from May 1, 1935. These were never shown to Albert Glover and in view of their appearance it is doubtful if they would have meant much to him if they had. The defendant never accounted to Albert Glover with respect to either the moneys advanced to him over all the years or the rent moneys  
30 received and payments made by the defendant from the trust account. The defendant said Albert Glover had never asked for an accounting and he had never given him one for that reason.

On July 11, 1938, a singular transaction took place. On that date the second mortgage was discharged by the defendant and he took a new mortgage from Albert Glover to secure the principal sum of \$15,000, and interest at five per centum repayable in five years in semi-annual instalments of \$500 each and the balance on July 1, 1943.

In 1943 the defendant testified that he had  
40 advanced another \$10,000 on Albert Glover's account in connection with structural changes made to one of the apartment properties, but later on June 15th, 1944 an agreement altering the terms of payment of the last mortgage (called an extension agreement in the evidence) was entered into between the two men. The principal sum in the agreement is stated to be \$19,500 which the defendant said comprised the principal sum of the last mortgage, together with \$4,500 interest accrued to July 1, 1944. The interest rate was changed to 3% and the provision for semi-annual payments of \$500 cash was continued; the balance was made payable on July 1, 1949. The document is thus silent



as to the \$10,000 advance claimed by the defendant to have been made by him in 1943.

The defendant gave an explanation for the substantial reduction of his mortgage from \$34,500 to \$15,000 which was exceedingly difficult for me to follow. He testified that the principal of the mortgage had been reduced on the advice of still another brother, T. R. Glover, a lawyer of many years standing, who had retired and was said to be in poor health at the time of the trial of this action. According to the defendant the reduction had been made to serve him some advantage in the matter of succession duties in the event of his predeceasing Albert Glover. He swore that the latter had understood the reason for the change. Counsel informed me that the brother, T. R. Glover, was not called to testify because his health would not permit. I must confess I cannot understand the professed reason for the reduction and in the light of all the circumstances, I do not accept it.

The late Albert Glover was about 79 years of age at the time of his death. There was some considerable evidence given as to his state of health at the time of, and for some two or three years prior to, the execution by him of the disputed quit claim deed on July 29, 1944. The defendant swore that Albert Glover's mental capacity was then as good as his own, and the plaintiff, Evelyn Glover, said that "there had never been anything wrong with my husband mentally and that he had his faculties until the last." I am satisfied, however, that due to her advanced age and the infirm and confused manner in which she testified at the trial, Mrs. Glover's powers of judgment and recollection had become seriously impaired. This was so much the case that I found myself unable to rely on almost everything she said which might have been helpful to either the plaintiffs or the defendant. The plaintiff, Dr. Albert Moore Glover, swore that he had noticed a change come over his father before he himself had gone overseas in 1942, and the condition had not improved upon his return to Kingston in August 1945. He swore that Albert Glover was suffering from arteriosclerosis or hardening of the arteries, and high blood pressure, that he had become quite senile and seemed to be living in the past. He had neglected his mother after 1941 or 1942, he said, and that whereas his father had always been a regular church goer, he had ceased going to church and had become rather bitter and critical of religion. Dr. Albert Moore Glover was borne out in much that he said as to his father's behaviour by his wife, Mrs. Catherine D. Glover, who had lived in one of Albert Glover's apartments during her husband's absence overseas and had known him since 1940. Dr. Robinson who attended upon Albert Glover at the time of his last illness testified that he found a general condition of hardening of the arteries, and Dr. McDonnell, a qualified expert in this field, said that this would indicate that the onset of the disease took place some ten years before and that there would have been a worsening of the condition from that time on.

He said that this condition could have produced a number of serious changes in Albert Glover including an impairment

of his will. I accept the evidence of Dr. Albert Moore Glover and his wife corroborated to some extent as it was by the evidence of the two physicians I have named and by other bits of evidence. In the result, while I am unable on the evidence to find that the late Albert Glover was mentally ill at the time he executed the disputed quit claim deed as alleged by the plaintiffs, I am satisfied that his mental powers had become impaired before the material date. That factor is important, in my opinion, in view of all the circumstances of the case.

10 On July 29, 1944, a little more than a month after the extension agreement had been signed, the defendant drove Albert Glover and his wife to the law office of Mr. W. O. Dwyer. When they saw Mr. Dwyer in his private office, the quit claim deed had been prepared for execution upon the defendant's instructions. About what took place in the private office on this important occasion almost nothing is clear, or even to be gleaned from the evidence as a result of Mr. Dwyer's death some months before the trial. Albert Glover's widow said that the document had not been explained by Mr. Dwyer but for reasons stated, I find myself unable to rely upon her  
20 testimony. Miss Parent, Mr. Dwyer's stenographer, swore the late Albert Glover and his wife were in Mr. Dwyer's private office, she thought, about an hour, but on cross examination she admitted that she knew nothing about what had transpired there. She also related that Mr. Dwyer was a chatty person and often talked to clients about anything but business for an hour. The defendant's evidence was sketchy and of little assistance as to this material conversation. He did not claim to have ever discussed a quit claim deed with his brother Albert up to that time, although he swore that Albert had indicated to him in 1944, and perhaps before, in any event on several  
30 occasions, that he had lost the properties and that they really belonged to the defendant. He testified that he had left the explanation of the quit claim deed to Mr. Dwyer and had assumed he had carried out his duty. He had seen the lawyer talking to his brother Albert and Mrs. Glover but he professed not to know what was said.

It is clear from the evidence that Mr. Dwyer acted as the defendant's solicitor at the time and it is reasonably clear that Albert Glover had known Mr. Dwyer for many years. Miss Parent said Albert Glover had been in that office before July 29, 1944 and had consulted Mr. Dwyer professionally on some occasions, but she  
40 gave no particulars and in view of her admissions on cross-examination, I am unable to find upon her evidence that Mr. Dwyer ever before acted for Albert Glover in an advisory capacity or otherwise. The defendant also said that Albert had consulted Mr. Dwyer professionally. I understood him to say on cross-examination, however, that there were but two of such occasions, namely, on June 15th at the time of the agreement altering the terms of the mortgage and again when the disputed quit claim deed was executed, but if I misunderstood him I do not think anything turns on the point because if it could be said that Mr. Dwyer acted for both brothers, it was the duty of the lawyer  
50 "to see not only that the transaction was understood, but that the infirm person was adequately protected or had independent advice"

(see Middleton, J. as he then was, in Pinney v. Tripp, 22 O.W.N. 429 at 430.) I feel bound on the evidence to hold that the defendant has not established that the document or its effect was ever explained to Albert Glover and his wife by Mr. Dwyer or any other independent qualified adviser. I am satisfied, too, that the old man did not understand the purport of the disputed document. Some of the facts are rather remarkable in this connection.

10 It is not in dispute that the two apartment properties comprised the whole of Albert Glover's worldly possessions except for some personal chattels and the furniture on the mortgaged premises, but a few days following the execution of the quit claim deed, namely, on August 2, 1944, Albert Glover attended Mr. Dwyer's office and executed his will, by the terms of which he nominated the defendant as his sole executor and trustee, and left his estate both real and personal, to him in trust to pay the income to his widow for life, and the corpus to his son upon her decease.

20 If the facts having to do with the making of the will seem important in connection with the question of Albert Glover's appreciation of the nature of the quit claim deed he signed a few days before, and they do, it is also significant that until Albert Glover died some seventeen months later things between him and the defendant went on as before. There was no change whatever in the arrangement they made in 1935 as to the handling of the rents or the management of the two properties. And it is even more significant, in my opinion, to find that the defendant refrained from registering the quit claim deed until about a month after his brother's death. The defendant sought to explain the long delay in registration by saying that Mr. Dwyer had advised him the document did not need to be registered following execution, and that he had  
30 not wanted to embarrass his brother. The embarrassment that notice of the document would eventually cause his brother's estate seems to have escaped him. The defendant also said that in the case of prior mortgages from his brothers he had delayed registration, but all the documents are before me, and I find but one such instance. At the time Albert Glover first mortgaged the properties to the defendant in 1927, registration was long delayed, but the subsequent mortgages were registered promptly.

40 Counsel for the plaintiffs took the ground that the defendant stood in a fiduciary relationship to Albert Glover, and I entertain no doubt, upon all the facts of the case, that such is the proper interpretation to be placed upon their relations. That the two brothers trusted each other implicitly is beyond dispute, and it is quite clear upon the evidence that Albert Glover reposed the utmost confidence in the defendant, for the latter swore that Albert would "bank his soul" upon him and would sign any document the defendant asked him to sign.

50 The principle is admirably stated in Sir Frederick Pollock's Principles of Contract, 10 Ed., 599 et seq., where he quotes a passage from the judgment of Lord Kingsdown in Smith v. Kay (1859) 7 H.L.C. 750 at 779, and the following by Lord Chelmsford in

Tate v. Williamson (1886) L.R. 2 Ch. App. 55 at p. 61:

"Wherever two persons stand in such a relation that, while it continues, confidence is necessarily reposed by one, and the influence which naturally grows out of that confidence is possessed by the other, and this confidence is abused, or the influence is exerted to obtain an advantage at the expense of the confiding party, the party so availing himself of his position will not be permitted to retain the advantage, although the transaction could not have been impeached if no such confidential relation had existed." 10 This statement of the law applicable has been consistently followed in Canada. See Krys v. Krys (1928) S.C.R. 162, for example.

A great deal of time was taken up in dealing with the value of the apartment properties. The experts who testified valued them all the way from \$80,000 down to \$36,860. But I do not consider the true approximate valuation of importance once it has been established, as I think it has, that the defendant has taken advantage of his position. The defendant swore that Albert Glover admitted to him in 1944 that he owed him around \$50,000, but at that 20 age and infirmity, not possessed of his full mental faculties, and the defendant had never rendered him an accounting, on his own admission. Taking a quit claim deed of practically the whole of his brother's estate in such circumstances is, in my view "the obtaining of an advantage", especially since some of the loans the defendant claims to have made to his brother were uncorroborated by any independent evidence.

Another important principle applicable, approved in Krys v. Krys, supra, at 163, is that enunciated by Lord Justice Cotton on the well known case of Allcard v. Skinner (1887) 36 Ch. D. 30 145 at 171:

"It is necessary for the donee to prove that the gift was the result of the free exercise of independent will. The most obvious way to prove this is by establishing that the gift was made after the nature and effect of the transaction had been fully explained to the donor by some independent and qualified person so completely as to satisfy the Court that the donor was acting independently of any influence from the donee and with the full appreciation of what he was doing; and in cases where there are no other circumstances this may be the only means by which the donee can 40 rebut the presumption." As I have already found upon the evidence, the late Albert Glover never had the benefit of independent advice as to the meaning and effect of the disputed quit claim deed, and for this reason alone the transaction cannot stand, in my view.

It is true that the passage first quoted is with reference to a "gift", but the same principle is applicable in the case of a transfer for value. (See Tate v. Williamson, supra, at 66, and McKay v. Clow et al., 643 at 664).

It appears to me, upon a careful review of the whole case, that it would be contrary to equitable principles in 50 judging of the dealings of persons in a fiduciary relation, to allow

the disputed document to stand. Therefore, there will be judgment for the plaintiffs declaring that the quit claim deed dated July 29, 1944, and registered on January 19, 1946 as No. 61005, is fraudulent and void and should be set aside, and that the registration thereof be cancelled. The plaintiffs are also entitled to an accounting of the rents and profits of the apartment properties since May 1, 1935, and there will be a reference to the Local Master of this Court at Kingston for this purpose.

10 The quit claim being set aside, the state of the title to the properties will be left to have its proper legal effect, and the defendant shall be at liberty, if he chooses, to claim against the estate of Albert Glover as an ordinary creditor for such sum as he says he is entitled to be paid above the amount of his mortgage for \$19,500.

The defendant shall pay the plaintiffs' costs. Costs of the reference are reserved.

IN THE SUPREME COURT OF ONTARIO

THE HONOURABLE MR. JUSTICE HENDERSON	)	WEDNESDAY, THE 8TH
	)	
THE HONOURABLE MR. JUSTICE ROACH	)	DAY OF DECEMBER, A.D.
	)	
THE HONOURABLE MR. JUSTICE AYLESWORTH	)	1948.

BETWEEN:

EVELYN GLOVER and  
ALBERT MOORE GLOVER,

Plaintiffs,

(SEAL)

- and -

10

WILLIAM R. GLOVER,

Defendant.

UPON MOTION made unto this Court on the 14th day of January, 1948, by Counsel on behalf of the Defendant, in the presence of Counsel for the Plaintiff Evelyn Glover, for leave to read the Affidavit of Hugh Francis Gibson sworn on the 5th day of January, 1948, and the exhibits therein referred to, upon the hearing of the appeal by the Defendant from the Judgment of the Honourable Mr. Justice Lebel dated the 14th day of June, 1947, and upon hearing what was alleged by Counsel aforesaid and Judgment having been reserved upon this motion until this day, -

1. THIS COURT DOTH ORDER that the motion be and the same is hereby dismissed.

"Chas. W. Smyth"

Registrar S.C.O.

Entered O.B. 204 Page 87  
December 17th, 1948.

"D. A."

IN THE SUPREME COURT OF ONTARIO

THE HONOURABLE MR. JUSTICE HENDERSON	)	THURSDAY, THE 27TH DAY
THE HONOURABLE MR. JUSTICE ROACH	)	OF MAY, A.D., 1948.
THE HONOURABLE MR. JUSTICE AYLESWORTH	)	

BETWEEN:

EVELYN GLOVER and  
ALBERT MOORE GLOVER,

Plaintiffs,

- and -

10 (SEAL)

WILLIAM R. GLOVER,

Defendant.

UPON MOTION made unto this Court on the 14th, 15th, 16th, 19th and 20th days of January, 1948, by Counsel on behalf of the Defendant, in the presence of Counsel for the Plaintiff Evelyn Glover by way of appeal from the Judgment pronounced by the Honourable Mr. Justice LeBel on the 14th day of June, 1947, and upon hearing read the said Judgment, the Reasons for Judgment and the evidence at Trial, and upon hearing Counsel aforesaid, and judgment upon the said motion having been reserved until this day, -

1. THIS COURT DOTH ORDER that the appeal be and the same is hereby allowed and the action be and the same is hereby dismissed.

2. AND THIS COURT DOTH FURTHER ORDER that the Defendant do recover from the Plaintiff Evelyn Glover his costs of the action and of the appeal forthwith after taxation thereof.

"Chas. W. Smyth"

Registrar, S.C.O.

Entered O.B. 202 page 249  
June 21st, 1948.

"M. K."

THE SUPREME COURT OF ONTARIO

C.A.

EVELYN GLOVER and ALBERT  
MOORE GLOVER

v.

WILLIAM R. GLOVER

) Copy of Reasons for Judgment

) of Court of Appeal (Henderson,

) Roach and Aylesworth, JJ. A.),

) delivered 27th May, 1948.

) R. F. Wilson, K.C. and H. F. Gibson,  
) for Defendant, appellant.

) C. M. Smith, K.C. for plaintiff  
) Evelyn Glover, respondent.

) Argued January 15th, 16th,  
) 19th and 20th, 1948.

10

HENDERSON J. A. :- I have had the privilege of reading the opinion of my brother Roach and I agree with the reasons and conclusions which he has reached. I desire only to add a few comments of my own.

20 The financial account between the late Albert Glover and the defendant began with the purchase by the defendant of a grocery store and business for his brother Albert Glover at a cost of \$12,150.00. In the course of time this business was lost by the late Albert Glover, and when the defendant was informed that his brother had been fore-closed he went to the purchaser who had acquired the business to ascertain if he could re-purchase it for his brother, but was unable to do so. This was in 1920.

In 1926 the late Albert Glover began converting 174 Earl Street in the City of Kingston, into apartments, and in 1931 he began converting 170 and 172 Earl Street in Kingston, into apartments.

30 In the course of these transactions the defendant was called upon continually to supply money to the late Albert Glover, and at the time the quit claim deed in question was given, the late Albert Glover was indebted to the defendant in the sum of \$67,941.70.

40 There was put in evidence a statement of the expenditure and revenue for the period 14th September, 1920 to 29th July, 1944, which had been compiled from the records by an accountant employed for the purpose. No attempt whatever has been made by the plaintiff to question the correctness of this account, but it appears that in addition a further sum of \$8,000 was loaned by the defendant to the late Albert Glover, of which the accountant was not informed, so that the total indebtedness of the late Albert Glover to the defendant upon this record was \$75,941.70.



Counsel for the plaintiff, when asked on the argument contented himself by saying that he did not accept this account, and appeared to think that this was sufficient to brush it aside.

At one stage when the indebtedness to the defendant had grown to a large amount, it was arranged that rent cheques for the apartments would be turned over to the defendant. After that time certain rent cheques were received by the defendant and some were turned over to him by the late Albert Glover, but the evidence is that the late Albert Glover turned over only certain rent cheques  
10 over and above what he decided he required for his living expenses. It is also in evidence that the late Albert Glover in his lifetime and his widow since his decease, and up to the time of the trial and of the hearing of the appeal, and no doubt up to the present day, occupied an apartment in the premises for which no rent was ever paid. A second apartment produced no rent for the reason, as stated to the Court, that the late Albert Glover was largely indebted to the occupant and no rent was paid.

It is clear to me upon the record that at all times the late Albert Glover was the beneficiary of the dealings between himself and  
20 the defendant, and no debtor ever had a more patient or generous creditor.

Upon the record I find that the late Albert Glover had no equity whatever in the properties described in the quit claim deed.

An effort was made by the plaintiff and her son and daughter-in-law, to question the mental capacity of the late Albert Glover at and before the making of the quit claim deed, but in my opinion this attempt entirely failed.

Shortly after the making of the quit claim deed, the late Albert Glover made a will in which the defendant was named executor  
30 without his knowledge. The defendant entered the will for probate only after a demand that he do so was made by plaintiff's solicitor with the threat that if he failed to do so the Court would be applied to for an administration order. The result of this is that the defendant has incurred a further expenditure of several hundred dollars, of which there is no hope of return.

No suggestion has been made either by the plaintiff or her son or daughter-in-law that the late Albert Glover was not of sound and disposing mind, memory and understanding, to make this will.

In the result all that the defendant has received is to be  
40 involved in expensive litigation, and to be accused of fraud and undue influence.

ROACH J.A.: This is an appeal by the defendant from the judgment of the Honourable Mr. Justice LeBel dated the 14th day of June, 1947, setting aside as fraudulent and void a quit claim deed of certain lands and premises in the City of Kingston from the late Albert Glover to the defendant dated the 29th day of July, 1944.

The plaintiff Evelyn Glover is the widow of the deceased. The plaintiff Albert Moore Glover is his only other heir-at-law. Prior to the trial the claim of the plaintiff Albert Moore Glover was dismissed on the application of the defendant by reason of the failure of Albert Moore Glover to attend on an examination for discovery, so that when the action came to trial the claim of the plaintiff Evelyn Glover was the only claim to be disposed of.

The late Albert Glover died on or about the 23rd day of December, 1945. The defendant is a brother of the deceased.

10 The lands and premises covered by the quit claim deed in question are known as street numbers 170, 172 and 174 Earl Street in the City of Kingston and consist of very large dwellings and appurtenances which dwellings were originally designed as single dwellings but which had been remodelled and converted into apartments by the deceased. The deceased acquired that property in July, 1907, and remained the sole owner subject to encumbrances to which reference will be later made until he conveyed it to the defendant by the quit claim deed in question in this action.

20 In their statement of claim the plaintiffs allege that the defendant obtained the quit claim deed as the result of undue influence exerted by him upon the deceased who at the time of the execution and delivery of that deed and for several years prior thereto was without mental capacity to understand the nature and effect of the document and was under the complete domination and control of the defendant.

In his reasons for judgment the learned trial Judge, after reviewing the conflicting evidence as to the mental condition of the deceased at the material time, says:-

30 "In the result while I am unable on the evidence to find that the late Albert Glover was mentally ill at the time he executed the disputed quit claim deed as alleged by the plaintiffs, I am satisfied that his mental powers had become impaired before the material date."

Later the learned trial Judge says:-

"Counsel for the plaintiffs took the ground that the defendant stood in a fiduciary relationship to Albert Glover and I entertain no doubt upon all the facts of the case that such is the proper interpretation to be placed upon their relations."

40 The learned trial Judge further found that the defendant took advantage of that relationship at the expense of the deceased whose mental faculties had become impaired and who had not any independent advice as to the meaning and effect of the quit claim deed.

Counsel for the appellant put this appeal upon the following grounds:-

1. The defendant did not stand in a fiduciary relationship to the deceased.

2. If there was such a relationship then  
(a) The deceased received independent advice.  
(b) Independent advice was not essential because the conveyance was for value.

3. That the evidence on which the trial Judge relied for his finding that the deceased's mental faculties were impaired at the material date was insufficient to justify that finding.

10 At the date of his death Albert Glover was seventy-nine years of age and the defendant was eight years younger. They both resided in the city of Kingston. The defendant is a Dentist by profession and it is very apparent from the evidence that he has been financially successful. For a number of years ending about 1926 the deceased carried on a retail grocery business. That business terminated in a financial failure and the mortgagee foreclosed the mortgage which it held on the property.

20 In 1926 the deceased began to convert number 174 Earl Street into apartments. It would appear that he had some skill in and knowledge of that sort of work and for several years thereafter he devoted all his attention to remodelling these buildings and having remodelled them to managing them. He did not possess similar skill and ability in financial matters and, as will later appear, he was almost constantly in financial difficulties.

In July 1926 he borrowed from the London Life Insurance Company the sum of \$25,000.00 on the security of a first mortgage on these properties, the purpose of which was to finance the cost of alterations.

30 In January, 1927, he gave a second mortgage on the properties to the defendant, securing the sum of \$25,000.00, that amount, so the defendant stated, being a consolidation of various loans which he had made to the deceased by way of assisting him in the grocery business before its collapse and later in financing the alterations to the Earl Street buildings. There is no reason for doubting the defendant's explanation of that mortgage.

Under date July 1st, 1931 the deceased gave another mortgage to the defendant and another brother, Robert, securing the sum of \$34,500.00 and the mortgage dated January, 1927, was discharged. The brother Robert had given financial assistance to the deceased and the total of the deceased's indebtedness to them as of that date can be assumed to have been \$34,500.00.

40 In 1933, so the defendant stated, he paid arrears of taxes which had accumulated against the Earl Street property amounting to \$1600.00 and the indebtedness of the deceased to the defendant was thereby increased by that amount.

Early in 1935 the deceased found himself in further difficulty. There were accumulated arrears owing to the London Life Insurance Company and the defendant, so he stated, advanced the further sum of \$3,000.00 to the London Life to settle that difficulty.

In April, 1935, Robert Glover assigned his interest in the second mortgage to the defendant and it would appear that the deceased then owed the defendant the principal amount of the second mortgage, namely, \$34,500.00, quite apart from interest, the amount paid on account of taxes, namely, \$1600.00, and the sum of \$3,000.00 which the defendant had paid to the London Life; that is, a total of at least \$39,100.00. In addition there was the first mortgage owing to the London Life.

10 It is not suggested that as of April 1935 the deceased had any assets besides the property in question and certain equipment in the apartments which did not form part of the realty. His financial position had become distressing. Neither is it suggested that his mental faculties as of that date had become impaired. With full ability to appraise his own financial position and to appreciate the position of his brother, the defendant, as his creditor, he then entered into an arrangement with the defendant whereby he agreed to turn over to him all the rentals received from the tenants, retaining only sufficient to cover the living expenses of himself and his wife. From the moneys thus received the defendant was to make all payments  
20 on account of the mortgages, taxes, insurance and necessary maintenance. That arrangement was carried out except that the moneys thus received by the defendant were not always sufficient to meet those expenses and the defendant had to meet the deficiency out of his own funds. Thereafter there was never any accounting between the deceased and the defendant, but I think it may be fairly stated that the deceased had unlimited confidence in the defendant.

On July 11, 1938 the second mortgage for \$34,500.00 was discharged and on the same day the deceased gave the defendant a new  
30 second mortgage to secure the sum of \$15,000.00 and interest. Under the terms of payment of that new second mortgage the principal became payable in half-yearly instalments of \$500.00 each until July 1st, 1943 when the whole balance then remaining unpaid became due and payable. It is not suggested that the deceased at that time reduced the amount of his indebtedness to the defendant. He could not have done so because he did not have the wherewithal to do it.

The deceased and the defendant had another brother, T. R. Glover, who was a lawyer and the defendant swore that the old mortgage for \$34,500.00 was discharged and the new one for \$15,000.00 was given on the advice of that brother in contemplation of some  
40 advantage that would accrue in the event of the defendant predeceasing the brother Albert. That advantage was supposed to be related in some way to succession duties that might be payable by the defendant's estate. The defendant denied that he forgave any part of the deceased's indebtedness to him and swore that by reducing the mortgage from \$34,500.00 to \$15,000.00 he simply reduced the security which he had for the whole of the indebtedness owing to him. T. R. Glover was not called as a witness and it was said on behalf of the defendant that at the time of the trial he was too ill to attend. Therefore what he had in mind when he gave the advice to his brothers has not been  
50 explained.

In 1943, so the defendant swore, he advanced the further sum of \$10,000.00 to the deceased to pay for some further alterations to the buildings.

Under date June 15, 1944, an extension agreement was entered into between the deceased and the defendant extending the time for payment of the \$15,000.00 mortgage and reducing the interest rate from 5% to 3%. In that extension agreement it is recited that the deceased had applied to the defendant to alter the terms of payment of the mortgage and the defendant had agreed to do so. It is further 10 recited that there was then owing on that mortgage the whole principal thereof and interest from the first day of July, 1938, (it will be recalled that the mortgage was dated the eleventh day of July, 1938). The extension agreement provides that the sum of \$19,500.00 thus secured and then owing shall become payable in half-yearly instalments of \$500.00 each on the 1st days of January and July in each year commencing on January 1st, 1945, and continuing until July 1st, 1949, when the remaining balance shall become due and payable. The interest is also to become payable half-yearly on the same dates.

It will be observed that the sum of \$10,000.00 said to have 20 been advanced in 1943 still remained unsecured.

Before any payment had become due on the mortgage thus extended, namely on July 29th, 1944, the deceased executed and delivered to the defendant the quit claim deed in question in this action.

Before referring to the circumstances under which that quit claim deed was given, I desire to point out certain other facts which were stressed by counsel for the respondent on this appeal.

On August 2nd, 1944, the deceased made his will by which he appointed the defendant his sole executor and trustee and gave his whole estate to him on trust to pay the income therefrom to his widow 30 during her lifetime, on her death to pay her funeral and testamentary expenses and then to pay the balance of the corpus of the estate to the son of the deceased, Dr. Albert Moore Glover, he being one of the original co-plaintiffs in this action.

The extension agreement, the quit claim deed and the will had all been drawn by and executed in the office of the late Mr. W. O. Dwyer who was a lawyer practising in the City of Kingston and who died prior to the trial of this action. As to the circumstances surrounding the giving of the quit claim deed there is therefore only the evidence of the defendant. His evidence does not disclose any 40 new circumstances having developed between June 15th, 1944, being the date of the extension agreement, and July 29th, 1944, being the date of the quit claim deed, that would affect the relationship between the deceased and the defendant or that would cause the defendant on the one hand to become alarmed or dubious about his position either as a mortgagee or an unsecured creditor or that would motivate the deceased, on the other hand, to surrender the mortgaged premises to the defendant in satisfaction of that indebtedness. The point is that in the absence of any new circumstance having developed in that interval, any reason that justified the giving of the quit claim deed 50 on July 29th also would have justified it on June 15th. The recitals

in the extension agreement would indicate that on June 15th the defendant was not then insisting on payment of his mortgage and as of that date that the deceased was not contemplating surrendering his equity of redemption to the defendant. If the recitals mean anything they indicate that the deceased was apparently anxious to retain that equity and the defendant was willing to assist him in doing so. I confess great difficulty in understanding why there should be a complete reversal of their respective attitudes forty-two days later. The defendant gave his explanation and I cannot do  
10 better than quote from his evidence.

"Q. Now what happened in 1944? A. Referring to the quit claim deed?  
Q. Yes. A. Well my brother and I talked over about getting this business settled up.  
Q. Did you talk on more than one occasion? A. At different times.

.....

Q. What did Albert Glover have to say to you on any one of these occasions? A. To get our business settled up.

Q. What did he say about your business? A. Well I told him that he owed me around \$50,000.00.

20 Q. And what did he have to say about it? A. Well he said "It's your property anyway." At different times he told me that. I said 'We had better get the business straightened up.'

By His Lordship:-

Q. He said 'It's your property anyway'? A. Yes.

By counsel:-

Q. Did he say this on more than one occasion? A. Yes.

Q. Did he say anything else on other occasions? A. He said he was thankful to have a home.

Q. Why did he say that? A. Because he knew that he had lost it - lost all his equity in the property.

30 Q. What about 1936 -

By His Lordship:-

Q. And that is what you feel that he felt? A. Yes.

Q. Did he ever say that he realized that his equity was gone? A. At different times - he did tell me at different times. He said - there were times when the rents - that this property was not paying at all and that he had my money and he said 'It's all yours anyway'.

Q. Did he mean it was all yours because he was going to give it to you? A. No he had lost it.

Q. Did he say that? A. Yes.

40 Q. Did he say it on more than one occasion? A. On more than one occasion. He said that he would not have had a home if it had not been for me. He said that he ought to be grateful for it."

It is my understanding of that evidence that the discussions between the deceased and the defendant to which the defendant there refers began much earlier than the date of the extension agreement and that the defendant did not by that evidence intend the Court to understand that those discussions took place only in the interval between the granting of the extension agreement and the giving of the quit claim deed.

I have already stated that the only assets which the deceased had over and above his equity, if any, in this property consisted of some personalty in the buildings such as some electric stoves which did not form part of the realty. That being so it is difficult to understand why he would make a will which provided for the payment of income to his wife during her lifetime when he had practically no capital that would earn any income.

10 Mr. Dwyer was the defendant's solicitor and when the defendant consulted him, so the defendant swore, he told the solicitor that his brother had no equity in the property because he owed him more than the property was worth and he asked the solicitor "How we should fix it up" and according to the defendant, the solicitor said "You take a quit claim deed." Then the defendant said to the solicitor "Will you explain it to him" (meaning Albert). "It is better for you to do it than for me to do it."

20 According to the defendant, on the day the quit claim deed was executed the defendant called for the deceased and his wife and drove them to the solicitor's office. The document was ready for execution and as to what transpired there I again quote first from the defendant's examination in chief:-

"Q. And how long were you in before it was signed? A. Oh I imagine about half an hour or so - I don't know just how long.

Q. What was going on during that time? A. Mr. Dwyer was explaining to my brother and his wife.

Q. Do you recall what was said? A. I was a disinterested party - I was in the room but I was not listening to what they were talking about.

Q. Could you tell everything that was said? A. Well they were talking.

30 Q. Were they discussing the quit claim deed? A. Yes, they were discussing the quit claim deed. Mr. Dwyer explained it to them. That's all I know."

Then on cross-examination:-

"Q. Did you hear Mr. Dwyer explain any quit claim deed to your brother Albert? A. Well, I could not say that . . .

Q. The answer is no is it? A. Well, I was not close enough to hear what he was talking about.

Q. You were not close enough to hear what Mr. Dwyer was talking about? A. No - to know what he said."

40 According to Mr. Dwyer's stenographer the parties were in the solicitor's office about an hour but she had no knowledge of what was there said by anyone although she witnessed the signatures of the deceased and his wife.

It has taken longer than I anticipated to record the foregoing, but it has seemed to me that it was necessary to do so for an understanding of my conclusions.

With great deference to the learned trial Judge, I do not think that the defendant stood in a fiduciary relationship to the deceased. I am of the opinion that the legal relationship between



10 them was merely that of creditor and debtor and, of course, mortgagee and mortgagor. It was argued for the respondent that the arrangements made between them in April, 1935, created a fiduciary relationship which had not previously existed. I cannot accede to that argument. The deceased still remained in full control of the properties. It is true that under that arrangement the deceased turned over to the defendant a large proportion of the rents out of which the defendant was to make payments on taxes, etc., but that did not create any confidential relationship between them. The position of the defendant under that arrangement was certainly lower than that of a mortgagee in possession; it was very little higher, if any, than that of the ordinary mortgagee. The arrangement was loose and informal, and not such as in itself enabled the defendant to exert any exceptional influence over the deceased.

There being no fiduciary relationship between the defendant and the deceased, the onus of proving undue influence is on the plaintiff. See Axworthy v. Staples, (1924) 26 O.W.N. 219. The question is, has she satisfied that onus?

20 In Ford v. Olden, (1867) L.R. 3 Eq. 461, the Court citing with approval Webb v. Rorke, 2 Sch. & Lef. 661, 7 R.R. 122, said:

"The Court views transactions between mortgagor and mortgagee with considerable jealousy and will set aside the sale of the equity of redemption where by the influence of his position the mortgagee has purchased for less than others would have given and where there are circumstances of misconduct in obtaining the purchase."

And later:

30 ". . . the principle upon which the Courts act is not that the mortgagor is unable to enter into a contract of this kind but that the transaction ought to be looked upon with jealousy especially when the mortgagor is a needy man and when there is pressure and inequality of position and the sale has been at an under-value."

The effect of that judgment is not to shift the onus but to point out the zeal of the Court administering equity in protecting a mortgagor against unfairness or over-reaching or other misconduct by a mortgagee.

Keeping in mind the zeal which should mark the attitude of the Court in such a case, and searching the conduct of the defendant, and all the circumstances of the transaction, I think the plaintiff has failed to satisfy the onus resting upon her.

40 The learned trial Judge has declined to find that the deceased was mentally ill at the material date, but he did find that his mental powers had become impaired before that date. There is evidence which points to some measure of impairment but there are varying degrees of impairment. Certainly the deceased at the material date was entirely rational. In assessing the extent of his mental impairment, it is important to keep in mind that it was not such as prevented him from managing and supervising the apartments, collecting the rents,



and attending to problems of maintenance as they arose. Indeed, he continued to do all those things almost up to the date of his death.

10 Unquestionably the deceased reposed unusual confidence in the defendant, but that was mutual. The defendant admitted that the deceased would "bank his soul" upon the defendant and would sign any document the defendant would ask him to sign. That fact, while it may and I think should, in the circumstances here present, lead the Court to a most penetrating inquiry into the conduct of the defendant, proves no more than that the defendant had the opportunity of committing a fraud on the deceased. The learned trial Judge has not found any fraud and I cannot find any.

20 As earlier stated, it is difficult to understand first, the giving of the quit claim deed so soon after the extension agreement, and second, the deceased making a will a short time later, by which he provided for payments of income for the maintenance of his wife, when he had practically no assets that would earn any income. However, in my opinion, neither of those two curious circumstances necessarily leads to the conclusion that the defendant obtained the quit claim deed by any misconduct on his part. It may well be that even after the extension agreement had been given, the deceased may have concluded that it was useless attempting to hold on to the properties longer. They had never carried themselves; rents were frozen; the war was still on and there was no prospect of any improvement in conditions in the near future. The deceased and the defendant were both advanced in years, and the explanation given by the defendant that it was their mutual desire to get matters settled, seems to me to have been an attitude of mind which was entirely reasonable. The conclusion reached by the deceased to convey the equity of redemption to the defendant may, indeed, have resulted from conferences between him and the defendant subsequent to the granting of the extension agreement, and yet that conclusion may well have been reached without any undue influence or improper conduct on the part of the defendant.

30 I have sought some explanation for the making of the will with its provisions for payment of income, and I have found none. My failure in that regard, however, cannot be decisive of the issue existing here. In any event the making of the will would be in the nature of self-serving evidence.

40 Finally I am of the opinion that having regard to the evidence as to value, the consideration passing to the deceased could certainly not be said to be out of proportion to the true value of the deceased's equity of redemption. Certainly the plaintiff has not proved that the defendant purchased the equity of redemption for less than any other person would have paid. For the reasons which I have already indicated these apartments, with their mortgage encumbrances, would certainly not be an attractive investment for any purchaser.

10 In some respects the defendant was an unsatisfactory witness, as evidenced by the extract which I earlier quoted from his evidence. Giving that fact its due weight, it seems to me that even it is insufficient to tip the scale in favour of the plaintiff. When one has regard to the whole history of the dealings between these two brothers over many years, to the unquestioned loyalty of the defendant to the deceased throughout those years, his willingness to help him financially when occasion required, his willingness as late as the date of the extension agreement to continue to protect the deceased by extending the terms of the mortgage and reducing the interest rate, the implicit confidence which each had in the other, and their absolute fairness towards one another throughout the whole period, it seems to me that having regard to the evidence it would be wrong to hold that the defendant had so completely reversed his attitude to his brother as to do him an injustice such as here alleged.

For the reasons stated it is my opinion that the appeal should be allowed and the action dismissed. The defendant should have his costs of the action and of this appeal, if demanded.

AYLESWORTH J. A. agrees with Roach J. A.

## PART V.

*In the  
Supreme  
Court of  
Canada.*

No. 1.

## FORMAL JUDGMENT.

No. 1.  
Formal  
Judgment,  
24th June  
1949.

IN THE SUPREME COURT OF CANADA.

Friday, the Twenty-fourth day of June, 1949.

Present :

The Right Honourable THE CHIEF JUSTICE OF CANADA.  
The Honourable Mr. JUSTICE KERWIN.  
The Honourable Mr. JUSTICE TASCHEREAU.  
The Honourable Mr. JUSTICE KELLOCK.  
The Honourable Mr. JUSTICE LOCKE.

10

Between EVELYN GLOVER (Plaintiff)

Appellant

and

WILLIAM R. GLOVER (Defendant)

Respondent.

20

The Appeal of the above-named Appellant from the Judgment of the Court of Appeal for Ontario pronounced in the above cause on the twenty-seventh day of May, in the year of our Lord one thousand, nine hundred and forty-eight, reversing the Judgment of the Honourable Mr. Justice LeBel of the Supreme Court of Ontario rendered in the said cause on the fourteenth day of June, in the year of our Lord, one thousand, nine hundred and forty-seven having come on to be heard before this Court on the eighteenth, twenty-first, twenty-second and twenty-third days of March, in the year of our Lord, one thousand, nine hundred and forty-nine in the presence of counsel as well for the Appellant as for the Respondent; whereupon and upon hearing what was alleged by counsel aforesaid, this Court was pleased to direct that the said Appeal should stand over for Judgment and the same coming on this day for Judgment,

30

THIS COURT DID ORDER AND ADJUDGE that the said Appeal should be and the same was allowed, that the said Judgment of the Court of Appeal for Ontario should be and the same was reversed and set aside, and that the said Judgment of the Honourable Mr. Justice LeBel of the Supreme Court of Ontario should be and the same was restored.

AND THIS COURT DID FURTHER ORDER AND ADJUDGE that the said Respondent should and do pay to the said Appellant the costs incurred by the said Appellant as well in the Court of Appeal for Ontario as in this Court.

(Sgd.) PAUL LEDUC,  
*Registrar.*

## REASONS FOR JUDGMENT.

(a) Kerwin, J. (concurrent in by The Chief Justice)

No. 2.  
Reasons  
for  
Judgment,  
(a) Kerwin,  
J. (con-  
curred in  
by The  
Chief  
Justice).

I agree with the Court of Appeal that the Respondent did not stand in a fiduciary relationship to the deceased. It is unnecessary, however, to determine exactly in what category the relationship should be placed as it is sufficient that it was not of such a nature as to give rise to a presumption that the Respondent possessed over the deceased an influence which might deprive him of his independence of judgment: *Bradley v. Crittenden* (1932) S.C.R. 552, where a difference of opinion existed as to the existence of the relationship but there was no disagreement as to the principle to be applied. That being so, there is no presumption that the giving of the quit claim deed was the result of the Respondent's influence over his brother. 10

The evidence in the present case has been detailed in the judgments below and I do not repeat it. It does seem clear, however, that the Respondent throughout a number of years advanced money to his brother on many occasions and while, owing to the death of the solicitor who drew the quit claim deed and the inability of another brother, through illness, to testify, it is difficult to find an explanation for some of the occurrences, I agree with Mr. Justice Roach that "it would be wrong to hold that the Defendant had so completely reversed his attitude to his brother as to do him an injustice such as here alleged." 20

The appeal should be dismissed with costs.

(b) Kellock, J. (con-  
curred in  
by  
Taschereau,  
J.).

(b) Kellock, J. (concurrent in by Taschereau, J.).

In this action the Appellant, the widow of the late Albert Glover, seeks to set aside a quit claim deed dated the 29th of July, 1944, from the said Albert Glover to the Respondent, covering two substantial apartment house properties in the City of Kingston. Albert Glover and the Respondent were brothers. Albert Glover was seventy-eight at the date of the quit claim deed, the Respondent being eight years younger. The learned trial judge has found as a fact that, while he was unable to find that Albert Glover was mentally ill at the time he executed the quit claim deed "I am satisfied that his mental powers had become impaired before the material date." I see no reason to dissent from this view. On the contrary, this finding is fully substantiated by the evidence which the learned trial judge accepts. 30

The brothers had had considerable dealings since in or about the year 1920, at which time the Respondent advanced certain monies to his brother in connection with the purchase of a grocery store business, and subsequently, in 1924, paid off a mortgage in connection with that business. These advances amounted to some \$13,000.00. 40

In or about the year 1926, Albert Glover converted the premises at 174 Earl Street in Kingston into apartments and for that purpose mortgaged the premises to the London Life in the sum of \$25,000.00 and the Respondent, according to his evidence, advanced a further \$8,000.00 about that time. On January 1, 1927, Albert Glover gave a second

mortgage for \$25,000.00 on 174 Earl Street to the Respondent, which the Respondent said was to secure all the advances which he had made up to that time, including interest.

In or about the year 1931 Albert Glover, who lived at 172 Earl Street, converted those premises also into apartments and, according to the Respondent, the latter advanced a further \$3,000.00 for the purposes of the conversion. On July 1, 1931, the \$25,000.00 second mortgage was discharged and replaced on July 1, 1931, by a new second mortgage for \$34,500.00 which the Respondent said included all items owing by his  
 10 brother to him up to that time, although he is unable, with any degree of certainty, to detail the items covering the difference in amount between the two mortgages. It should be mentioned that on the new mortgage, another brother, R. J. Glover, appeared as mortgagee along with the Respondent, but the Respondent subsequently acquired the interest of R. J. Glover.

Subsequently, in or about 1933, the London Life mortgage having fallen into arrears and proceedings being threatened, the Respondent said that he paid some \$3,000.00 to the London Life to straighten up the position of that mortgage. Respondent also said he paid some \$1,600.00  
 20 for taxes on the property.

The next instrument which appears upon the registered title is a mortgage upon the premises from Albert Glover to the Respondent for \$15,000.00, the previous mortgage for \$34,900.00 being discharged. The Respondent says that this transaction did not result from his having received any monies in respect of what was owing to him by his brother, although since he had straightened up for his brother the situation under the London Life mortgage, Albert Glover had handed over to the Respondent all the rents from the apartments other than that occupied by Albert Glover himself and such other sums as he needed to maintain  
 30 himself. The Respondent's explanation of the change in the mortgage situation was that he had been advised by another brother, a solicitor resident in Toronto, that as the premises were not worth the amount of the encumbrances he should reduce the mortgage held by him to that value and in this way save succession duties on his own estate.

Under the arrangement pursuant to which the rents were handed over to the Respondent, the latter was to make all payments for mortgage principal and interest, taxes, insurance, repairs, etc., and for the purpose of handling the monies the Respondent opened a trust account in which he said he placed these receipts and out of which he made the disbursements.  
 40 He also says that there were times when there were not sufficient monies in this trust account to meet the necessary outgoings and he advanced further monies out of his own pocket. It appears that he used the trust account for his own purpose at times, but according to his evidence, he always replaced such withdrawals. At no time did the Respondent give any statement or accounting to Albert Glover with respect to his dealings in connection with the properties.

According to the Respondent, Albert Glover made some structural changes to 174 Earl Street about the year 1943 and an addition was also built to number 172, and the Respondent says that he advanced his brother  
 50 "around about \$10,000" in this connection. On June 15, 1944, Albert Glover and the Respondent entered into an agreement extending the mortgage of 1938 by which the debt owing by Albert Glover to the

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Respondent was fixed at \$19,500.00 and made payable in instalments ending on the 1st of July, 1949. If it be true, as the Respondent testified, that in or about 1943 he had advanced an additional \$10,000.00 to his brother in connection with the mortgaged premises, it would seem reasonable that the Respondent, if he is to be believed, as to his explanation for the cutting down of the mortgage from \$34,500.00 to \$15,000.00 in 1938 to coincide with the value of the premises, must have considered the premises had increased in value at least to the extent of the additional advances.

The conveyance directly in question in this action, namely, the quit claim deed of July 29, 1944, was thus executed within approximately six weeks of the date of the extension agreement and before any monies fell due under the agreement. At this time, as the learned trial judge has found, the mental powers of Albert Glover had become impaired. The learned trial judge made the following findings with respect to the relationship between the brothers at this time :

“ Counsel for the plaintiffs took the ground that the defendant stood in a fiduciary relationship to Albert Glover, and I entertain no doubt, upon all the facts of the case, that such is the proper interpretation to be placed upon their relations. That the two brothers trusted each other implicitly is beyond dispute, and it is quite clear upon the evidence that Albert Glover reposed the utmost confidence in the defendant, for the latter swore that Albert would ‘bank his soul’ upon him and would sign any document the defendant asked him to sign.”

It is useful to quote the evidence of the Respondent himself on this point :

“ Q. He had implicit confidence and trust in you ?—A. Yes, and if he were living to-day, we would settle it in five minutes.

Q. And if you asked him to sign his name, he would sign it as quick as a flash, wouldn't he ?—A. Well, he would know it was all right.

Q. He would, wouldn't he ?—A. Yes, he knew it would be all right.

*By His Lordship :* Q. He would sign what you asked him to sign ?—A. Yes.

*By Mr. Smith :* Q. And trust you to do the right thing ?—A. Yes ; and so would I— it was a mutual trust, but for the rest of the family, it was not.

Q. Mutual trust and confidence ?—A. Yes.

Q. And Albert would bank his soul that you would do the right thing ?—A. Yes.

Q. And if you asked him to sign anything, he would sign it without thinking of any possibility that things might not be as he thought ?—A. I saved him from bankruptcy.

Q. He would sign anything you asked him ?—A. If I asked him to sign, he would, but I never asked him to sign except the mortgages.

Q. You asked him to sign that extension of mortgage ?—A. Yes.

Q. And you asked him to sign the quit claim deed ?—A. Yes.”

The quit claim deed was executed in the office of a Kingston solicitor named Dwyer, who is now deceased. It was prepared by Dwyer on the instructions of the Respondent, who was Dwyer's client, while Albert Glover, as the trial judge finds, was not. The Respondent did not claim ever to have discussed a quit claim deed with Albert before its execution and it was the Respondent who took Albert Glover and the Appellant to Dwyer's office for the purpose of executing the document and the Respondent was in the room with them at the time. The Respondent, when asked as to what took place in the lawyer's office, testified that he

10 was "not paying any attention"; "that he didn't hear what was said"; and "that he was a disinterested party." Such evidence is incredible in my opinion and bears its own refutation on its face.

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With respect to whether or not Albert Glover had ever been a client of Dwyer, the Respondent testified, in chief:

"Q. You say that he used to go and see Mr. Dwyer?—

A. Yes.

Q. And consult him professionally?—A. Yes, to consult him professionally.

Q. How do you know that?—A. He said so.

20 Q. Who said so?—A. My brother, and I was down with him more than once.

Q. You were down with him more than once.—A. Yes."

In cross-examination he said:

"Q. . . . Now, doctor, do you ever know of your brother being a client of Mr. Dwyer's?—A. Well, I could not say that he was a client, but he may have gone in occasionally.

Q. He went down there with you—you were a client of Mr. Dwyer's?—A. Not until recently.

Q. Well, you were a client recently?—A. Yes.

30 Q. You became a client of Mr. Dwyer's, and your brother went down there with you at your request on those occasions. Is that right?—A. Yes.

Q. Let us be perfectly plain. What you say is that your brother was not a client of Mr. Dwyer's to your knowledge?—A. Not to my knowledge. He always spoke well of Mr. Dwyer though.

Q. And he went down there on two occasions to Mr. Dwyer's office with you?—A. I think on at least two occasions.

40 Q. That is the occasion when you had the extension of the mortgage?—A. Yes.

Q. And the occasion when you had the quit claim deed?—A. Yes."

The only evidence which the Respondent gave with respect to the circumstances out of which the quit claim deed arose, was that he had told his brother in 1944 that the debt amounted to \$50,000.00, or more, and that Albert had said "It is your property anyway" on more than one occasion; that "We had better get the business settled up"; and that "He had lost the property." The learned trial judge has found upon

50 all the evidence that the quit claim deed was not explained to Albert Glover and that he never understood what it was he was signing. The subsequent history is, in my opinion, inconsistent with any other

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reasonable view. The quit claim itself was never registered until after the death of Albert Glover. The situation with respect to the apartment properties remained the same as before its execution, namely, as to the dealing with the rents and the occupation without payment of rent of one of the apartments by Albert Glover and the occupation of another apartment by the daughter-in-law of Albert Glover, again without payment of any rent. However, the most striking circumstance is that, while according to the Respondent himself, the quit claim deed, if operative, had left Albert Glover without a dollar, with the exception, perhaps, of some moveable property in the apartments, we find Albert Glover on the 10  
second of August, 1944, within four days of the execution of the quit claim deed, executing a will in which he appointed the Respondent sole executor and trustee and directed "that my entire estate, both real and personal, of whatsoever nature, and wherever situate, be given to my said executor and trustee upon the following trusts," that is to say :

"To pay to my wife, Evelyn, the income therefrom during her natural life. On the death of my said wife, Evelyn, to pay her funeral and testamentary expenses. To give the corpus to my son, Dr. Albert Moore Glover, upon the death of my said wife."

In the Court of Appeal the view of the court is thus expressed in the 20  
reasons for judgment of Roach, J.A. :—

"As earlier stated, it is difficult to understand first, the giving of the quit claim deed so soon after the extension agreement, and second, the deceased making a will a short time later, by which he provided for payments of income for the maintenance of his wife, when he had practically no assets that would earn any income. However, in my opinion, neither of those two curious circumstances necessarily leads to the conclusion that the defendant obtained the quit claim deed by any misconduct on his part. It may well be that even after the extension agreement had been given, the deceased 30  
may have concluded that it was useless attempting to hold on to the properties longer. They had never carried themselves; rents were frozen; the war was still on and there was no prospect of any improvement in conditions in the near future. The deceased and the defendant were both advanced in years, and the explanation given by the defendant that it was their mutual desire to get matters settled, seems to me to have been an attitude of mind which was entirely reasonable. The conclusion reached by the deceased to convey the equity of redemption to the defendant may, indeed, have  
resulted from conferences between him and the defendant subsequent 40  
to the granting of the extension agreement, and yet that conclusion  
may well have been reached without any undue influence or improper conduct on the part of the defendant.

I have sought some explanation for the making of the will with its provisions for payment of income, and I have found none. My failure in that regard, however, cannot be decisive of the issue existing here. In any event the making of the will would be in the nature of self-serving evidence."

With respect, the learned judge is mistaken in his statement that the 50  
properties "had never carried themselves." The Respondent himself put in at the trial a statement which showed that during the period from



the 17th of April, 1935, when he took over the handling of the rents, to the date of the quit claim deed on the 29th of July, 1944, there was a surplus of receipts over disbursements of \$7,233.11. Further, the suggestion of the learned judge "that the conclusion reached by the deceased to convey the equity of redemption to the defendant," may have resulted from conferences between him and the Respondent subsequent to the granting of the extension agreement is not borne out, as the Respondent gave no evidence of any conferences upon which such a view could be based, and the finding of the learned trial judge that the quit claim deed was never explained to Albert Glover or understood by him, excludes any such "conclusion reached by the deceased to convey the equity of redemption to the defendant."

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As to the value of the premises, the Respondent, as already pointed out, had, in 1943, while taking the stand that the amount stated in the mortgage of 1938 did not represent the indebtedness owing by his brother to him, advanced, according to his evidence, a further \$10,000 for structural changes and additions to the apartment houses. From 1935 to 1944 the premises had produced a substantial profit of over \$7,000, taking into consideration only the rents turned over to the Respondent by his brother, apart from the rental of the apartments occupied by Albert Glover and the daughter-in-law and the other amounts retained out of rents by Albert Glover for the maintenance of himself and his wife. The Respondent at the trial called evidence to show a valuation of the apartment buildings in 1944 as high as \$60,000.

In his affidavit to the quit claim deed the Respondent swore that :—  
"the true amount of the monies in cash and the value of any property or security included in the consideration is as follows :—

	(A) Money paid in cash	.. .. .	\$1.00
		* * * * *	
30	(B) Balances of existing encumbrances with interest owing at date of transfer	..	\$32,443.25
			<hr/>
	Total consideration	..	<u>\$32,444.25 "</u>

At this time the principal owing on the London Life mortgage had been reduced to \$13,500 so that the secured debt owing to the Respondent was then \$18,944.25. The difference between this figure and the \$19,500.00 covered by the extension agreement of June 15, 1944, must have been represented by interest. Thus the Respondent was acquiring properties worth up to \$60,000.00 for a consideration of \$32,000.00, as he states specifically, although he pleaded the contrary, that any unsecured debt owing to him was not released. The improvidence of the transaction is therefore striking. The Respondent, who knew the facts, at no time told his brother that the revenue from the apartments which he was receiving showed a substantial profit and the evidence establishes that the deceased did not appreciate this fact as, according to the Respondent, he said he had "lost" the property.

In *Bradley v. Crittenden* (1932) S.C.R., 552 at 559, Duff, J., as he then was, said :—

"If it be proved that there exists a relation between two persons, A and B, of such a nature as to give rise to a presumption

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that A possesses over B an influence which may, in operation, deprive him of his independence of judgment, then if, in any transaction B acquires from A " (A acquires from B) " property by gift or contract, the court will presume that the transaction has been the result of that influence and will set it aside, unless the donee (because in this case we are concerned with the case of gift) establishes, to the satisfaction of the court ' That in fact the gift was the spontaneous act of the donor acting under circumstances which enabled him to exercise an independent will and which justifies the Court in holding that the gift was the result of a free exercise of the donor's will . . . 10  
In the second class of cases the Court interferes, not on the ground that any wrongful act has in fact been committed by the donee, but on the ground of public policy, and to prevent the relations which existed between the parties and the influence arising therefrom being abused '."

The fact that Duff, J., as he then was, was dissenting in the above case does not affect the accuracy of the principle stated, which was in fact recognized by all the members of the court who differ only as to its applicability.

In *Tate v. Williamson*, L.R. 2 Ch. 55, Lord Chelmsford, L.C., said, 20 at p. 61 :—

" Wherever two persons stand in such a relation that, while it continues, confidence is necessarily reposed by one, and the influence which naturally grows out of that confidence is possessed by the other, and this confidence is abused, or the influence is exerted to obtain an advantage at the expense of the confiding party, the person so availing himself of his position will not be permitted to retain the advantage, although the transaction could not have been impeached if no such confidential relation had existed." 30

In *McKay v. Clow* [1947] S.C.R. 643, Crocket, J., delivering the judgment of the majority, said at 664 :—

" . . . the established rule of equity is that, whenever it appears that any party to a transaction, from which he or she derives some large or immoderate benefit, occupies such a position in relation to his or her supposed benefactor as to give the recipient a dominating influence over the latter, that benefit is presumed to have been obtained by the exercise of some undue influence on the part of the recipient."

In the case at bar the actor throughout was the Respondent, who, 40 on his own showing, was in a position to obtain the deceased's signature to any document at any time.

On the findings of the learned trial judge that Albert Glover at the time he executed the document in question was impaired mentally ; that the document was never explained to him and that he did not understand it ; that its execution stripped him of all his property, apart from some moveables in the apartments ; and that the Respondent had taken advantage of his position, together with the circumstances subsequent to the execution of the document, including the making of the will by Albert Glover, and the continuance of the status quo, it is impossible, in 50 my opinion, to uphold the transaction.

The only explanation put forward by the Respondent for having his brother convey the properties in 1945 was, as already mentioned, for the purpose of settling his affairs with the Respondent and because he had already lost the property. This explanation is incapable of acceptance. The affairs were not settled; the unsecured debt which the Respondent claims was owing to him by his brother was not released and there is no reason whatever why the deceased should have thought he had lost the properties in 1944 when, on a partial accounting of the rents, there was a substantial surplus. During the depression years the situation may well have been different, but the situation in 1944 was as stated. There must, therefore, have been another reason for the Respondent to have decided at that time to take the quit claim deed and I think that reason is disclosed in two answers which he made. In one he said that his brother knew he would take care of him, and in the other, that while as to his brother "it was a mutual trust but for the rest of the family it was not."

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I think the inference is reasonably plain that the Respondent had determined to acquire the properties for himself, intending, no doubt, to look after his older brother so long as he lived, but having no such feelings towards the "rest of the family." No other explanation has been given by him and, in my opinion, there was none.

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In my opinion the learned trial judge arrived at the correct result and I would allow the appeal with costs here and below.

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In this action the plaintiff, the widow of Albert Glover, sought to set aside a quit claim deed given by him to the defendant on July 29th, 1944, and in which the plaintiff joined to bar her dower, on the ground that its execution was obtained by the defendant by fraud and undue influence. LeBel, J., by whom the action was tried, found that at the time of the execution of the instrument a fiduciary relationship existed between Albert Glover and his brother, that the former did not understand the purport of the disputed document and that the defendant had not discharged the onus which he considered lay upon him to establish that the nature and effect of the document had been explained to Albert Glover and that he was acting independently of any influence from the defendant, and set aside the instrument. This judgment was reversed in the Court of Appeal and the action dismissed. Roach, J.A. with whom Henderson and Aylesworth, J.J.A. agreed, concluded that the defendant did not stand in a fiduciary relationship to Albert Glover, that the relationship was merely that of creditor and debtor, that the onus of proving undue influence lay upon the plaintiff and that this had not been discharged.

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The only available evidence as to the circumstances under which the quit claim deed was executed is that of the plaintiff and the defendant. The instrument was drawn by Mr. Dwyer, a solicitor in Kingston who died before the trial, and was executed in his office. If any explanation of the nature and effect of the instrument was made at the time of its execution, it was done by Mr. Dwyer and while the defendant was present in the office at the time he did not hear what took place between the solicitor, his brother and the plaintiff. The plaintiff gave evidence as to this but the learned trial judge found that owing to the infirmities of age her evidence generally was not to be relied upon and disregarded it in making his findings.

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Under these circumstances it is necessary to closely examine the evidence as to the relationship between the two brothers over the long period of years during which they had business dealings together.

It is apparent upon the face of the record that the defendant, a practising dentist in Kingston and financially well to do, for a long period of years prior to the execution of the deed had assisted his brother financially at times when the latter could not have obtained such assistance elsewhere. Albert Glover, seven years the senior of the defendant, had not been successful in life. He had apparently owned the property covered by the quit claim deed since the year 1907, though the buildings were largely extended and improved with the financial assistance of the defendant in later years. Prior to the year 1919 Albert Glover had carried on a grocery business in Kingston; in that year he had sold it. In 1920, having nothing to do, he wanted to repurchase this business and the defendant lent him \$9,000, with which to repurchase the property and the stock. There was a mortgage of \$4,000 on the property which the defendant assumed and later paid off. In the year 1926 Albert Glover wanted to convert 174 Earl Street, being part of the property in question, into an apartment block, and applied to his brother for assistance and obtained a further loan of \$8,000. This amount, together with the sum of \$25,000 borrowed upon a first mortgage, paid for the conversion of the property. Up to this time the defendant had no security for these advances but on January 1st, 1927, he took a second mortgage upon his brother's property for \$25,000, which sum was stipulated to be paid at the end of five years and to bear interest at 5 per cent. The principal amount of this mortgage is said by the defendant to have been made up of the advances made by him in connection with the purchase of the grocery business and the loan for the conversion of the property, with some accumulated interest. It appears that Albert Glover had by a mortgage dated March 17th, 1927, borrowed a further amount of \$4,000 from the Brockville Loan and Savings Company on the security of the grocery property, repayable in yearly instalments and the balance at the expiration of three years. In 1931 Albert Glover gave a further mortgage of \$34,500 upon the property in question in this action to the defendant and Robert J. Glover, another brother, and the mortgage taken by the defendant in 1927 was discharged. In so far as the defendant was concerned this mortgage apparently secured the advances he had made to that date but the extent of the interest of Robert J. Glover is not made clear. He, however, by an assignment made in April 1935 transferred his interest in this mortgage to the defendant.

It is apparent that neither the grocery business nor the operation of the apartments were profitable in the next few years. According to the defendant, in the year 1931 the London Life Assurance Company, which held the first mortgage upon the property, threatened to foreclose and he then advanced \$2,844.84 to prevent this and some \$1,600 to pay taxes. An arrangement was then made between the two brothers whereby the defendant was to look after the financial matters relating to the property in question, Albert Glover paying over to the defendant the rents received from the apartments, less such of these moneys as he needed for his own living expenses and some of the running expenses of the property. From the time of this arrangement there is a more satisfactory record of the dealings between the brothers, since the defendant opened a trust account

in the Bank of Montreal where the receipts from the property were deposited and out of which disbursements were made. It is of importance to note that in the period between April 17th, 1935, and the end of that year the rental income received was \$3,730 while disbursements for mortgage and bank interest, insurance, heat, light and water and taxes totalled \$4,582.95 showing a deficit of \$852.95, and it is apparent that Albert Glover could not have retained the property without his brother's assistance. In 1936 the Brockville Loan and Savings Company brought an action for foreclosure of their mortgage upon the grocery property and

10 apparently that property was sold under the mortgage. Albert Glover did not inform the defendant of the fact of these proceedings and when the latter learned of it he went to the purchaser and endeavoured to repurchase the property for his brother but was unable to do so and the grocery venture thus terminated. Thereafter until his death Albert Glover confined his activities to managing the apartments and lived upon such of the rents as he chose to retain for living expenses. From the time when the grocery business was lost he apparently had no assets other than furniture and other like personal property and his equity in the premises in question.

- 20 It is clear beyond question that throughout all these years Doctor Glover treated this brother with the greatest consideration and generosity. An account of the transactions between the two brothers from January 1st, 1936, until the giving of the quit claim deed in 1944, prepared from the defendant's records and the accuracy of which I see no reason to doubt, indicates that without assistance from his brother Albert Glover would have lost the property by foreclosure. The defendant borrowed the necessary moneys to supply operating deficits in such years as these occurred and to make payments on account of the principal of the London Life mortgage which was reduced at the rate of \$1,000 a year. There
- 30 were heavy expenditures for repairs and additions to the apartments, the making of which would have been impossible without the defendant's assistance. Thus in the year ending December 31st, 1936, the rental income received was \$5,424.36 while disbursements including a payment on account of principal upon the first mortgage exceeded this amount by some \$900.00: in 1937 the disbursements exceeded the rental revenue by nearly \$1,800 while in 1938 the excess was some \$2,800. In this year the defendant took a new mortgage for \$15,000 upon the property, payable at the expiration of five years with interest at five per cent. and discharged the mortgage which had been taken in 1931. It is not suggested for the
- 40 plaintiff that Albert Glover had paid anything to the defendant to reduce the principal amount owing: indeed it is quite clear that he had no resources with which to do this, rather had his indebtedness to his brother substantially increased. The explanation of what appears on the face of it to be a somewhat singular transaction as made by the defendant is that on the advice of another brother, Mr. T. G. Glover, a barrister, he had taken the mortgage for the reduced amount for the purpose of ultimately relieving his own estate of succession duties upon an amount in excess of the value of the charge. According to the defendant, his brother had advised him that upon his death the second mortgage would be valued for
- 50 succession duty purposes at its face amount and since this they apparently regarded as greatly exceeding the real value of the charge the mortgage for the reduced amount was taken. While the defendant executed the

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*continued.*

customary form of discharge of the earlier mortgage, he said that he did not release any part of the debt surplus to the amount for which the new mortgage was taken. From this time until the summer of 1944 the indebtedness of Albert Glover to his brother substantially increased. I find difficulty in determining upon the evidence what was the exact amount of the indebtedness of Albert Glover to his brother on June 15, 1944, when an agreement was entered into between the two brothers reciting that there was owing upon the mortgage taken on July 11th, 1938, the principal sum of \$15,000 with interest at 5 per cent. from July 1st, 1938, and extending the time for payment of the amount owing, which was said to be \$19,500 by providing for payment of \$500.00 on account of principal semi-annually in the years 1945 to 1949 inclusive, a further payment of \$500.00 on the 1st day of July, 1949, and the balance on July 1st, 1949, with interest at 3 per cent. It was on July 29th, 1944, that the quit claim deed in question was executed and delivered by Albert Glover and the plaintiff. 10

The quit claim deed was made for an expressed consideration of \$1.00 and was signed by the grantor in the presence of a stenographer employed by the solicitor Mr. Dwyer. In the affidavit of the defendant required by the provisions of the Land Transfer Tax Act "the true amount of the moneys in cash and the value of any property or security included in the consideration" was stated to be \$1.00 paid in cash and "balances of existing encumbrances with interest owing at date of transfer" \$32,433.25. In the statement of defence, however, it was alleged that the consideration for the quit claim deed was the release of all indebtedness of the said Albert Glover to the defendant. The defendant, however, did not support this by his evidence at the trial. According to him, he had discussed with his brother Albert on more than one occasion the matter of settling their business affairs. He said that he told him that the indebtedness was around \$50,000, and had said "We had better get the business straightened up" and that Albert had replied "It is your property anyway" and had said this on more than one occasion and that he was thankful to have a home. When these discussions took place in relation to the date when the extension agreement was made is not stated. According to the defendant, he consulted Mr. Dwyer as to how the matter should be dealt with and the latter advised him to take a quit claim deed. While Mr. Dwyer was known to Albert Glover, it is quite clear that he acted in this matter on the instructions and on behalf of the defendant. Whether anything further transpired between the two brothers after these discussions until the day upon which the instrument was executed is not disclosed. The defendant's evidence is that he instructed Mr. Dwyer to prepare the quit claim deed and told his brother that the papers were ready to sign and took him and the plaintiff to the solicitor's office. He says that he had previously asked Mr. Dwyer to explain the nature and effect of the instrument to his brother but, while he was in the office when the document was executed and there was a conversation between the solicitor and his brother and the latter's wife, he did not pay attention and could not say what was said, apparently depending upon the solicitor to explain the matter. The defendant does not suggest that he instructed Mr. Dwyer that the consideration for the quit claim was to be the release of the entire indebtedness of his brother, and the terms of the affidavit indicate that the solicitor was either instructed by the defendant or assumed 20 30 40 50

that the intention merely was to release the debt secured by the 1938 mortgage and the extension agreement and that the remaining consideration was the assumption of the London Life mortgage by the defendant and the obligation to indemnify his brother against his liability under that instrument, which would be implied by the taking of the quit claim (*Holmes v. Fagan* [1935] 4 D.L.R. 69). As above noted, the defendant did not give any evidence as to the consideration in support of the allegation in his statement of defence unless it can be suggested that, from the discussion between the brothers that it was desirable to get their business settled up, it might be inferred that the release of Albert Glover's interest was to extinguish his entire debt. The defendant, however, was asked as to this upon discovery and made the following answers:—

“ Q. After this quit claim deed was signed, was there anything owing by your brother to you, or did that release all his indebtedness ?

A. I took it that released everything.

Q. You took it that released everything as of that date ?

A. It wouldn't be everything.

Q. It wouldn't release everything he owed you ?

20 A. No.

Q. So that there was still an amount not included in the quit claim deed ?

A. Yes.”

If it were open to the defendant to give evidence contradicting the statement as to the consideration as expressed in the quit claim deed the evidence does not support the defence raised and it must be taken, in my opinion, that the consideration was the release of the defendant's second mortgage and his assumption of liability upon the first. The defendant himself, as appears from the record, appears to be in doubt as to what was the agreed consideration. As to what was said by Mr. Dwyer to Albert Glover and his wife on this subject, there is no evidence and it must be inferred that if he made any statement on the subject it was to the effect disclosed by the affidavit.

As to the value of the property at the time when the quit claim deed was given, which in one aspect of the matter is of importance, the evidence is unsatisfactory. For the plaintiff, evidence as to its value at the time of the trial in 1947 was given but this was not related in any way to its value in 1944 and accordingly was valueless. It is of some importance, however, that in 1936 the London Life Assurance Company had been willing to lend \$25,000 on a first mortgage of the property and that large amounts of money were spent between that time and 1944 for improvements and additions and for maintaining the property in a state of repair. Upon a careful consideration of all the evidence, I consider that it was established that the fair value of the property on July 29th, 1944, was considerably in excess of \$32,423.25, the amount of the existing encumbrances.

As to the mental condition of Albert Glover, who was seventy-seven years of age at the time of the impugned transaction, the learned trial judge accepted the evidence of his son, Doctor Albert Moore Glover, and the latter's wife, in preference to that of the defendant. The son said that for four or five years prior to his death his father was quite senile, that this condition had existed prior to the time when he himself went

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Court of  
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No. 2.

Reasons for  
Judgment,  
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*continued.*

overseas in 1942 and had become worse when he returned in 1945. Katherine Glover, the wife of Doctor Glover, Jr., who saw her father-in-law constantly during the period between her marriage in 1940 and the time of the giving of the quit claim deed, said that he was quite senile and "he was a very old man who did not think for himself" and that he was completely under the influence of the defendant and would never do anything without consulting him. The evidence of the defendant was that his brother was just as mentally capable as he was himself and there was a considerable volume of evidence to the effect that he had, nearly up to the time of his death, busied himself about the apartments, given directions when repairs or alterations were in progress, and otherwise given evidence of business capacity. Upon this conflicting evidence the learned trial judge found that while unable to find that Albert Glover was mentally ill, as alleged in the statement of claim, he was satisfied that his mental powers had become impaired before the material date and that he did not understand the purport of the disputed document. 10

There are some further important facts to be considered. As shown by the accounts, there had been a substantial increase in the rental income from the properties, presumably, since rent control was in effect, from the increased accommodation made available by the improvements and additions. Thus, in the year 1936 the income from this source was \$5,446.33, in 1941 this had increased to \$7,030.00, in 1942 \$7,104.00 and in 1943 amounted to \$6,460.00. On June 15th, 1944, the extension agreement was made. Mr. Dwyer had prepared this on the instructions of the defendant and the latter had asked Albert to go down to the lawyer's office and sign it. While, according to the defendant, the total indebtedness of his brother was about \$50,000, more than \$30,000 of this was unsecured. However, in so far as the second mortgage was concerned, the position of Albert Glover was substantially improved by the extension granted. Why, having obtained this extension, he should some six weeks thereafter give a quit claim deed of all his interest in the property for the consideration stated in that instrument, I am unable to understand. The defendant made no reference to the granting of the extension when giving evidence in chief but when cross-examined he said that he had taken it "so the other mortgage would not run out. It had run almost five years." He was mistaken as to this since the mortgage given on July 15th, 1938, was payable in instalments, the last of which had become due on July 1st, 1943. While, as has been indicated, the indebtedness of Albert Glover to his brother had substantially increased between the time when the latter took over the financing of the property and the summer of 1944, the indebtedness to the London Life Assurance Company had been largely reduced by annual payments on account of principal and the value of the property had been increased by improvements and additions. These latter, as indicated by the accounts, were substantial: thus in the year 1942 \$5,450.28 had been spent upon repairs and replacements, in the year following the expenditure was \$1,703.12 and in 1944 up to July 29th when the quit claim deed was given \$3,746.03 had been expended. In July, 1944, the landing in Normandy had been made successfully and an early and favourable termination of the war was in prospect and this, to any man experienced, as was the defendant, in business matters, would indicate a probable removal of rent control in the not too distant future and a large increase in property values such as had followed the termination of 40 50



hostilities in the first world war. That Albert Glover was in any condition to appreciate these matters, I greatly doubt. To grant the quit claim deed of all his interest in the property under these circumstances in return merely for a discharge of his liability under the second mortgage and an indemnity against liability under the first, leaving outstanding the large unsecured debt to his brother approximating \$30,000, was a highly improvident act. It was only five days after the date upon which the quit claim deed was executed that Albert Glover made his will, which was prepared by Mr. Dwyer on his instructions. It is clear that the granting of the quit claim had rendered him practically penniless. By the will, in which the defendant was named as executor and trustee, he directed that his "entire estate both real and personal of whatever nature and wherever situate" be given to his executor and trustee upon trust to pay to his wife the income therefrom during her natural life, on her death to pay her funeral and testamentary expenses and to convey the residue to his son, Doctor A. M. Glover. The learned trial judge has found that Albert Glover did not understand the nature and effect of the instrument that he and his wife had executed on July 29th and the making of this will can in the circumstances of this case be explained only upon that basis, in my opinion. It seems to me to be apparent that on August 2nd, 1944, Albert Glover was unaware that he had divested himself of all of his assets other than some personal property.

In determining the nature of the relationship between these brothers it is not unfair to the defendant to take his own description of it. In his cross-examination at the trial the following appears:—

"Q. He had implicit confidence and trust in you ?

A. Yes, and if he were living to-day, we would settle it in five minutes.

Q. And if you asked him to sign his name, he would sign it as quick as a flash, wouldn't he ?

A. Well, he would know it was all right."

*By his Lordship :—*

"Q. He would sign what you asked him to sign ?

A. Yes."

*By Mr. Smith :—*

"Q. And trust you to do the right thing ?

A. Yes, and so would I—it was a mutual trust, but for the rest of the family, it was not.

Q. Mutual trust and confidence ?

A. Yes.

Q. And Albert would bank his soul that you would do the right thing ?

A. Yes.

Q. And if you asked him to sign anything, he would sign it without a question or without thinking of any possibility that things might not be as he thought ?

A. I saved him from bankruptcy—

Q. He would sign anything you asked him ?

A. If I asked him to sign, he would, but I never asked him to sign except the mortgages.

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Court of  
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Canada.*

Q. You asked him to sign that extension of mortgage ?

A. Yes.

Q. And you asked him to sign the quit claim deed ?

A. Yes."

No. 2.  
Reasons for  
Judgment,  
(c) Locke, J.  
*continued.*

With great respect for the contrary opinion of the learned judges of the Court of Appeal, I disagree with their view that the legal relationship between the brothers was merely that of creditor and debtor and of mortgagee and mortgagor and that there was no fiduciary relationship. The defendant had been not merely the trustee of the revenues from the apartments since the arrangement made in 1935. He had also acted as 10 his brother's financial agent and advisor, borrowing for him or lending to him such amounts as were necessary to maintain the properties and to provide him with a livelihood and generally conducting his financial affairs. That Doctor Glover enjoyed the complete confidence of his brother is an admitted fact. It would indeed be surprising in view of the generous manner in which he had been treated during the past twenty-four years if Albert Glover did not both depend upon and look to his more successful brother for advice. As the defendant has said, his brother would sign anything which he asked him to as he would "know it was all right" and this appears to be fully borne out by the fact that, as found by the learned 20 trial judge upon the evidence, he signed the quit claim deed at his brother's request without understanding the nature of the instrument or realizing its effect. In *Kerr on Fraud and Mistake*, 6th Ed. 197, it is said that the principles which govern the case of dealings of persons standing in a fiduciary relation apply generally to the case of persons who clothe themselves with a character which brings them within the range of the principle, but that in cases where a fiduciary relation does not subsist between the parties, the Court will not, as it does where a fiduciary relation subsists, presume confidence put and influence exerted: the confidence and the influence must in such cases be proved extrinsically. In *Tate v. Williamson* 30 (1866), L.R. 1 Eq. 528, the claim was to set aside a sale of property made by a young man in financial difficulties to the defendant (not a solicitor) to whom he had been referred by a relative for advice. The young man had died intestate and the action was brought by his father as his heir-at-law. The deceased was entitled to certain property and in the course of his dealings with the defendant the latter had purchased it at an under-value. It was shown that the defendant had obtained a report as to the value of the property indicating that it was of a considerably greater value than the amount for which he proposed to purchase it and had not disclosed this to the intestate. Sir W. Page Wood, V.C., held that such a fiduciary 40 relation existed that the suppression of this information rendered it impossible for the court to sustain the purchase. On appeal (L.R. 2 Ch. 56) it was contended that there had been no fiduciary relationship between the parties but this argument was rejected, Lord Chelmsford, L.C., saying in part:—

"The question raised by the appeal is whether any such relation existed between the Defendant and the intestate, as to render it the duty of the Defendant to make the communication.

The jurisdiction exercised by Courts of equity over the dealings of persons standing in certain fiduciary relations has always been 50 regarded as one of a most salutary description. The principles applicable to the more familiar relations of this character have been

long settled by many well-known decisions, but the Courts have always been careful not to fetter this useful jurisdiction by defining the exact limits of its exercise. Wherever two persons stand in such a relation that, while it continues, confidence is necessarily reposed by one, and the influence which naturally grows out of that confidence is possessed by the other, and this confidence is abused, or the influence is exerted to obtain an advantage at the expense of the confiding party, the person so availing himself of his position will not be permitted to retain the advantage, although the transaction could not have been impeached if no such confidential relation had existed."

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—  
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Reasons for  
Judgment,  
(c) Locke, J.  
*continued.*

10

and said further : (p. 66)

"It appears to me, upon a careful review of the whole case, that it would be contrary to the principles upon which equity proceeds, in judging of the dealings of persons in a fiduciary relation, to allow the purchase by the Defendant, Robert Williamson, to stand."

In *In Re Coomber*, 1911, 1 Ch. 723 at 728, Fletcher-Moulton, L.J., said in part :—

20

"Fiduciary relations are of many different types ; they extend from the relation of myself to an errand boy who is bound to bring me back my change up to the most intimate and confidential relations which can possibly exist between one party and another where the one is wholly in the hands of the other because of his infinite trust in him."

30

The present case falls within the latter category, in my opinion. In a case such as this the party seeking relief has not to prove that actual fraud or coercion or even direct persuasion was employed ; he has but to prove the existence of the confidential relation, and then the onus falls upon the party seeking to uphold the conveyance of proving that the power conferred by the relation was not abused. To discharge this onus it must be shown not merely that the grantor was aware of the effect of his action, but that the gift was the result of the free exercise of the donor's will, uninfluenced by the party in whose interest the grant was made (15 Hals. 2nd Ed. p. 273). I agree with the learned trial judge that the defendant did not discharge this onus and that the transaction cannot stand.

40

I think the proper decision of this matter does not depend upon the question as to where the burden of proof lay. In my view, if the relationship between the parties was not of a fiduciary nature, the confidence reposed in the defendant by his brother and the exercise by the latter of his influence to obtain the execution of the quit claim deed have both been affirmatively proved. Just as the courts have not assumed to define fraud, they have not defined inflexibly what kind or amount of compulsion is sufficient ground for avoiding a transaction, whether by way of agreement or of gift. In the chapter on Duress and Undue Influence in the 12th Edition of Pollock on Contract, p. 474, it is said that the question to be decided in each case is whether the party was a free and voluntary agent and that any influence brought to bear upon the person entering into an agreement which, having regard to the age and capacity of the parties, the nature of the transaction and all the circumstances of the case, appears

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*In the  
Supreme  
Court of  
Canada.*

No. 2.  
Reasons for  
Judgment,  
(c) Locke, J.  
*continued.*

to have been such as to preclude the exercise of free and deliberate judgment, is considered by the courts of equity to be undue influence and a ground for setting aside the act procured by its employment. On this aspect of the case it is of importance to consider whether the transaction was improvident. If the parties were at arms' length that matter is one of indifference but, in circumstances such as are here present, the inadequacy of the consideration and the absence of independent professional advice, are of importance. The circumstances under which this conveyance was executed have been stated: it was given at the request of the Defendant and I have no doubt of its improvidence from the standpoint of Albert Glover. If, as the defendant pleaded, the consideration for the quit claim deed had been the release of the entire indebtedness of \$50,000, and the assumption of the London Life mortgage, I would hold a different view, but upon the evidence it is clear that this was not so and that consideration was, as has been above stated. That Doctor Glover used his influence with his brother to obtain the execution of the instrument is clear. In view of the record as to his kindness and generosity to his brother, I find difficulty in believing that he intended to overreach him but that, on his own version of the matter, he did in fact overreach him I do not doubt. What was done, in my opinion, amounted to the exercise of undue influence which is fatal to the transaction. 10 20

The appeal should be allowed with costs in this Court and in the Court of Appeal and the judgment at the trial restored.

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## ORDER OF HIS MAJESTY IN COUNCIL GRANTING SPECIAL LEAVE TO APPEAL.

*In the  
Privy  
Council.*

AT THE COURT AT BUCKINGHAM PALACE

The 21st day of December, 1949

L.S.

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

MR. SECRETARY SHINWELL

MR. SECRETARY NOEL-BAKER

MR. STRAUSS

No. 3.  
Order of  
His  
Majesty in  
Council  
granting  
Special  
Leave to  
Appeal,  
21st  
December  
1949.

WHEREAS there was this day read at the Board a Report from the Judicial  
10 Committee of the Privy Council dated the 12th day of December 1949 in  
the words following, viz. :—

“ WHEREAS by virtue of His late Majesty King Edward the  
Seventh's Order in Council of the 18th day of October 1909 there  
was referred unto this Committee a humble Petition of William R.  
Glover in the matter of an Appeal from the Supreme Court of Canada  
between the Petitioner (Defendant) Appellant and Evelyn Glover  
(Plaintiff) Respondent setting forth (amongst other matters) : that  
the Petitioner desires special leave to appeal from a Judgment of  
the Supreme Court given on the 24th June 1949 allowing an Appeal  
20 by the now Respondent from a Judgment of the Court of Appeal  
for Ontario : that the action was originally instituted by the  
Respondent Evelyn Glover the widow of Albert Glover and her son  
Albert Moore Glover as sole heirs at law of Albert Glover for a  
declaration that a Quit Claim Deed given by Albert Glover dated  
29th July 1944 was fraudulent and void and should be set aside and  
for other consequential relief : that the action in so far as it was  
brought by Albert Moore Glover was dismissed because of his  
failure to submit to discovery before the trial : that the Respondent  
in her Statement of Claim alleged that Albert Glover at material  
30 times was incapable of understanding the most ordinary business  
matters that the Petitioner exercised fraud and undue influence  
over him and that Albert Glover had no independent advice :  
that the Statement of Defence was a denial of mental incapacity  
fraud and undue influence and an assertion that Albert Glover was  
indebted to the Petitioner at the time the Quit Claim Deed was  
given and that there was consideration for the Deed : that the trial  
Court found that Albert Glover's mental powers had become  
somewhat impaired before the execution of the Quit Claim Deed  
although he was not mentally ill that a confidential relationship  
40 existed between Albert Glover and the Petitioner and that Albert  
Glover had not been independently advised : that the Court declared  
that the Quit Claim Deed was fraudulent and void and should be  
set aside and reserved the question of accounting which could not  
be dealt with as the estate of Albert Glover was not before the  
Court : that the Petitioner appealed to the Court of Appeal for  
Ontario with the result that the Judgment was set aside and the  
action dismissed : that the Court of Appeal for Ontario unanimously

*In the  
Privy  
Council.*

No. 3.  
Order of  
His  
Majesty in  
Council  
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Special  
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Appeal,  
21st  
December  
1949,  
*continued.*

found upon the evidence that there was no fiduciary relationship but rather that the relationship was that of debtor and creditor that no undue influence had been exerted by the Petitioner and that the consideration passing to Albert Glover was not out of proportion to the value of his equity in the property : that the Respondent appealed to the Supreme Court which by a majority allowed the Appeal and restored the Judgment of the trial Court : that the issues in these proceedings are (a) whether at material times a fiduciary relationship existed between Albert Glover and the Petitioner or whether the relationship was that of debtor and creditor ; (b) whether the Petitioner exercised undue influence ; (c) whether Albert Glover received independent advice ; and (d) whether the transaction which was for value was not manifestly unfair : that of the nine Judges who dealt with this case five Judges decided in favour of the Petitioner's contentions and four Judges decided in favour of the Respondent's contention : And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the Judgment of the Supreme Court dated the 24th June 1949 and for such further or other Order as to Your Majesty in Council may appear just : 10

“ THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of Canada dated the 24th day of June 1949 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs : 20

“ AND Their Lordships do further report to Your Majesty that 30 the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same.”

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government 40 of the Dominion of Canada for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

No. 4.

## ORDER OF REVIVOR.

*In the Privy  
Council.*

AT THE COURT AT BUCKINGHAM PALACE

The 26th day of June, 1950

No. 4.  
Order of  
Revivor,  
26th June  
1950.

PRESENT

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

MR. GAITSKELL

MR. SECRETARY GRIFFITHS

SIR RONALD IAN CAMPBELL

WHEREAS there was this day read at the Board a Report from the  
10 Judicial Committee of the Privy Council dated the 6th day of June 1950  
in the words following, viz. :—

“ WHEREAS by virtue of His late Majesty King Edward the  
Seventh's Order in Council of the 18th day of October 1909 there  
was referred unto this Committee a humble Petition of the Appellant  
in the matter of an Appeal from the Supreme Court of Canada  
between William R. Glover (Defendant) Appellant and Evelyn  
Glover (Plaintiff) (since deceased) Respondent (Privy Council  
Appeal No. 10 of 1950) setting forth : that the above Appeal is  
pending before Your Majesty in Council : that the Respondent  
has died as appears from a Supplemental Record which has arrived  
20 at the Privy Council Office from which it also appears that by an  
Order of the Supreme Court of Canada dated the 27th March 1950  
in the opinion of that Court the Personal Representative to be  
appointed to the estate of Evelyn Glover the deceased Respondent  
is the proper person to be substituted on the Record in the place  
of the said deceased Respondent : that it appears from the Letters  
of Administration of the estate of the deceased Respondent that  
Albert Glover the lawful son of the deceased Respondent is the  
Personal Representative : And humbly praying that Albert Glover  
30 may be substituted in the above Appeal for the deceased Respondent  
and that the Appeal may be revived accordingly :

“ THE LORDS OF THE COMMITTEE in obedience to His late  
Majesty's said Order in Council have taken the humble Petition  
into consideration and the Solicitors for the Respondent having  
signified in writing their consent to the prayer thereof Their  
Lordships do this day agree humbly to report to Your Majesty  
as their opinion that Albert Glover ought to be substituted in  
place of Evelyn Glover deceased as Respondent and that this  
Appeal ought to stand revived accordingly.”

40 HIS MAJESTY having taken the said Report into consideration was  
pleased by and with the Advice of His Privy Council to approve thereof  
and to order as it is hereby ordered that the same be punctually observed  
obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government  
of the Dominion of Canada for the time being and all other persons whom  
it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

# In the Privy Council.

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## ON APPEAL FROM THE SUPREME COURT OF CANADA.

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BETWEEN

WILLIAM R. GLOVER (Defendant) - - - - *Appellant*

AND

EVELYN GLOVER (Plaintiff) - - - - *Respondent.*

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# RECORD OF PROCEEDINGS

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CHARLES RUSSELL & CO.,  
37 NORFOLK STREET,  
STRAND, W.C.2,  
*for the Appellant.*

BLAKE & REDDEN,  
17 VICTORIA STREET, S.W.1,  
*for the Respondent.*