

BRANTFORD, March 30th, 1866.

To the Creditors of the late William Winter, of Brantford:

GENTLEMEN,—

As many of the Creditors did not attend any of the Meetings held about matters connected with the Estate, and as the whole matter may now be considered closed, I consider it due, alike to the Creditors and to myself, to give this brief resumé of the whole matter.

When, about three years ago, I reluctantly consented to act as Executor of this Estate, at Mr. Winter's urgent and dying request, I was led to believe that the assets would be some \$4,000.00 over and above all the liabilities. For a few weeks I devoted my whole time in finding out the exact position of the Estate, but it took me but a few days to ascertain that there would not be sufficient to pay twenty shillings in the £, as there had been no order or system in any one of the departments of the business. Without detailing the many circumstances which led me to this conclusion, it will suffice to state that the total liabilities were over \$28,000.00, owing to some sixty different parties, but not even the names (excepting in a few cases where the party had petty accounts in the store), of these parties appeared in a Book in the establishment except the one called the "Bill Book." Not even the name of such a Creditor as Messrs. J. C. Forster & Co., to whom the Estate was due \$4,882.96, and with whom large accounts had been opened ever since the business had been commenced. I also found that about \$2,000.00,—(\$1,500.00 Judgment and \$500.00 Costs,) had been paid out of the business in the suit *Beale vs. Winter*,—\$740.00 has been paid by me, and about \$600.00 by Mr. Winter, on the two Lots purchased, on the "Hatch Property," Woodstock, which Lots I still hold, they having been in the market for upwards of a year, at \$150.00, without finding a purchaser. Mr. Winter always estimated that he lost \$1,000.00 by the Pedler, Lansdale, who ran away with the proceeds of one large Christmas load of goods and accounts collected.

In a majority of cases, I found that the customers could produce receipts of some kind, for more than they had been given credit for.

I advanced a few hundred Dollars to meet pressing demands, and was allowed by the Bank to cheque out for Bills for the full amount of silver I had deposited. Thinking that the principal could succeed much better than an employee, in the collection and settlement of such accounts, I, at no small inconvenience to myself, made three lengthy journeys for this purpose. During the last one, I sent one package of silver from Chatham, two from Windsor, and one from London, by Express, addressed to myself at Brantford, expecting to have received them at the Express Office on my return on Saturday, (thinking I should arrive at home on Friday, but in consequence of the trains not being "on time" in three places, I did not arrive home till Monday night). The first thing on Tuesday morning I went to the Express Office to enquire after my money, and learned that it had been delivered to a young man in my office! and on arriving at my office, found that the said young man had decamped with it, together with some money of my own, the night previous.

A few weeks later one of the Creditors, to whom the Estate was owing \$410.22, placed his account in suit for collection, and I was served with a Writ. I was advised that the only things I could do under such circumstances, were either to pay this claim in full, or fall back into the Court of Chancery for protection. I did not of course hesitate a moment in choosing the latter, because, if Creditors found that those who sued for their claims were paid, the rest of course would follow.

Every Paper, Book Account, &c., &c., in connection with the Estate, were then duly handed over to the said Court, and during the six or nine months following, underwent the closest scrutiny of several professional gentlemen, representing a number of the largest Creditors. So far as I know, the following were the only objections taken to anything that had been done by me. 1st.—My personal liability for the money stolen. 2nd.—The payment in full of a certain accommodation Bank Note of \$400.00 and certain Missionary money in the hands of Mr. Winter, at the time of his death; and 3rd.—The receiving of any silver in payment of accounts due to the Estate. In answer I may state, before paying over the \$650.00 of Missionary money in full, I obtained legal advice and acted in accordance with it. Mr. Winter was in the habit of accepting silver at par, but I only accepted one-half in such coin.

About this time I saw one or two of the principal Creditors, to whom I expressed an earnest desire to have the matter of the stolen money settled in some satisfactory manner, without testing the question as to my legal liability in the Chancery Court, and offered \$1,000.00 in cash for that purpose. This offer was unhesitatingly accepted by the few Creditors I was enabled to see, and they promised to consult with the others and advise me of the result.

The searching examination which the affairs of the Estate had now been subjected to during the nine months they had been in the Court of Chancery, enabled the Creditors to approximate what the final result would be as to the dividend it would be likely to pay. The Creditors calculated that with the \$1,000.00 I proposed to pay, a dividend of 60 cents in the Dollar would be declared to ordinary Creditors, and they offered to accept this amount providing I would raise the money and pay the whole in Cash at once. The acceptance of any such offer would necessarily be in a great measure "a leap in the dark," as there were in all, twelve Houses and several vacant Lots to dispose of, and the Books (?) in the unsatisfactory state before mentioned. Still, being most anxious to have the matter settled, I offered to give 58½ per cent. on the \$, provided the Creditors among themselves would obtain and present me with a written acceptance of this offer.

Those terms were accepted by all the Creditors, except a Toronto firm, to whom the Estate was owing \$910.00, and who claimed 80 cents in the \$; not that, from an examination of the accounts, they considered that that dividend could be realized, but I suppose, from the very natural desire to obtain all they could on a debt justly due them in full. The offer I had made being the *utmost* I thought I could afford, I preferred that the whole matter should be settled by the Court rather than give even this small extra amount more than I had already offered. This mode of settlement was therefore abandoned and the wheels of the Court again set in motion. Thus matters went on for some six months more when I was requested by a Hamilton Creditor to revive my former offer as he was informed that the Toronto firm, before alluded to would now agree to the former arrangement. In the interval one or two circumstances had occurred which led me to believe that it was decidedly to my advantage to have the whole matter *closed* by the court, but feeling to some extent in honor bound to adhere to my former offer, I rather reluctantly consented to do so, provided each Creditor pay his own costs, I agreeing to pay the costs of the Court, in consideration of the interest on the money I would have been obliged to have borrowed to have closed the matter when the attempt had been first made.

The Creditors all agreeing to the arrangement, I borrowed \$4000 on Mortgage, in addition to all the money I could raise myself, and I paid off all the claims I then knew of with one trifling exception, and he still refused to accept that amount.—To the best of my knowledge every Creditor is satisfied that the arrangement made was the best that could have been made under the circumstances, for all parties—certainly none have made any complaint to me. I am fully aware that under ordinary circumstances, it would have been open to very grave objections, the purchasing (as it were) by an Executor of the Assets of an Estate for which he was acting as Executor. So scrupulous was I in this respect that I did not purchase to the extent of one cent any of the assets, even any of the groceries sold at a reduced price, till I thus compounded with all the Creditors.

I have nothing I desire to disguise in the whole matter, and in order that the Creditors may be well "posted up" in all matters connected with the Estate, I have left with Messrs. J. G. Forster & Co., of Hamilton, (the largest creditors), a full statement of the whole account, with a list of the bad debts, &c., &c., together with copious explanations, for the inspection of all the Creditors, or they can see a copy in my office. I may, however, give here some of the most important items in connection with the account.—Received from all sources \$21,603 83. Paid out (including stolen money) \$22,136 76. Cash now out of pocket \$772 93. Debts yet to pay \$306, (not including Mortgage to Mr. Teeple, as it is hoped that the lot it covers may sell for sufficient to pay it.) To meet this there are assets in hand of \$388, and due on mortgages in one, two and three years, \$290 00, making my apparent prospective loss \$400 93. The most important unsettled claim has been in the hands of arbitrators for upwards of a year, and though I am sure that the sum above named as the liabilities, will be considerably reduced. I am far from sanguine that other claims or losses will not accrue before the whole is finally settled. Bad debts, \$4,184 51.

The stolen money, &c., amounts to about 14 per cent. of the total amount received, less the amount I am out of pocket. The law costs have been about \$300, two-thirds of which were in connection with the Court of Chancery. Apart from this, and about \$130 paid J. Smith, and A. W. Smith for making out the accounts, and collecting the expenses connected with the winding up of the estate, have been very trifling indeed; no charges, of course, have been made by me for my time and trouble.

I am blamed by my legal advisers for issuing such a circular as this. I am fully aware that such a course is not usual, and, perhaps, unbusiness-like, but inasmuch as there were some unusual circumstances connected with the settlement of the estate growing out of the stolen money, I have considered it the most satisfactory course to pursue, especially as no one but myself can possibly be prejudiced by it.

Under ordinary circumstances I could not have entertained for a moment any proposition to become the purchaser, as it were, of the Creditors' claims, but even under such circumstances, I fail to see any reason why the Creditors should not know the final result. I have acted as the Executor for several large Estates, but never before where there was not much more than sufficient to pay 100 cents in the \$. The one in question being a bankrupt one, and its business conducted in a manner so diametrically opposite to that in which I do my own, I did not feel "at home" in its management. I regret exceedingly that I should have been in the remotest manner instrumental in losing any money that so justly belonged to the Creditors. I am not conscious of having taken a false step in the troublesome matter to the Creditors' disadvantage. I now feel confident that it was the best for all parties that the matter was settled in the manner it was. For bringing about this to a successful termination, the Creditors and myself are under great obligations to John Duncan, Esquire, of the firm of J. G. Forster & Co., who, by his gentlemanly conciliatory manner overcame all the difficulties which would be sure to present themselves before the consummation of any arrangement.

If from the circumstances narrated in my "Explanation" I lose a few hundred dollars less than the \$1,000 I offered, it must be borne in mind that the great chances were that I might have lost much more than that sum. I never considered myself *morally* bound to make good any of the money, and I am advised by my Attorney, (E. B. Wood, Esq.,) that I am not *legally*, but notwithstanding this, the unpleasant fact still remains—that a portion of the Creditors' money *was lost*.—I have, therefore, decided, that under all the circumstances, I will pay each creditor of \$50 and upwards one and a-half per cent., additional, making 60 cents in the \$1, in all—the amount the Creditors first asked for as a settlement in full.—Please find enclosed the sum of \$ being 1½ per cent. of your claim; and I shall now consider the matter *finally closed*, and shall keep no more accounts in connection with it. If, however, any of the creditors think anything can still be realized out of the bad debts, (a list of which are attached to my "Explanation,") I shall only be *too happy* to hand them all over for the benefit of the Creditors to any party who may be named, providing that the request be made before the 1st of June next.

I have the honor to be, Gentlemen,

Your most obed't serv't,

T. S. SHENSTON,

Executor of the Estate of the late W. Winter.