

I also find that this practice of the plaintiff was a circumstance that was material to the risk assumed by the defendants, and that it was in substantial conflict with the statement of the plaintiff that Findlay would not be empowered to draw cheques on the bank account or to sign the plaintiff's name thereto. In other words, while it was literally true that Findlay was not to draw cheques or sign the plaintiff's name, the representation was substantially false, because, if he was to be furnished with cheques already signed in blank by the plaintiff, there was no safeguard against his filling them in for any amount he might choose, and was, therefore, so far as respects the risk assumed by the defendants, equivalent to his having the power to draw the moneys on his own signature. The embezzlement of the \$1,000 item on the 21st March, 1907, was, I have no doubt, upon the evidence, effected by his filling in one of these blank cheques for that amount to his own order.

The statement that Findlay would not be empowered to draw cheques or to sign the plaintiff's name being clearly material to the contract, and being substantially untrue, I think the case is governed by *Elgin Loan and Savings Co. v. London Guarantee and Accident Co.*, 8 O.L.R. 117, 9 O.L.R. 569, 11 O.L.R. 330, and that the plaintiff cannot recover; and I do not, therefore, deem it necessary to express an opinion upon several other defences raised by the defendants.

Action dismissed with costs.

CORRECTION.

In the note of *Griffith v. Grand Trunk R.W. Co.*, ante pp. 1059 et seq., the text should be corrected as follows:—

Page 1060, 2nd line from top, for "some distance north of Kenilworth avenue" substitute "some distance north of Kenilworth avenue crossing."

Page 1061, 7th line from top, for "quietly" substitute "quickly."

Page 1061, 13th line from bottom, for "dinner" substitute "dinner-pail."