

good days; and I accept the evidence of Thomas Stacey as to what took place and as to the conduct and actions of his brother upon that day. The defendant had previously been in possession of the bank books of Stacey, and knew the amount he had in the bank. Stacey and his brother went to the house of the defendant, and there the defendant asked Stacey if he would sign a cheque for him, that he wanted a small sum, and just wanted it for a few days. The old man assented, and a blank cheque was produced to and signed by him, and a few minutes thereafter he went home. I am unable to accept the story of the wife of the defendant and her sister or that of the defendant.

Thereafter the defendant tried to get Mr. Todd, a grain merchant of the place, to fill in the blank cheque. Mr. Todd refused, and the defendant filled in the amount, \$5,000, himself. Thomas Stacey had been induced at the time of his brother's signature to add his own as a witness; and, after the defendant had filled in the amount, the defendant and his wife also signed as witnesses.

The old man rued what he had done as soon as he appreciated it, and an action was begun, as I have said, on 21st May. In the meantime Miller had paid \$100 to Mr. Robinson, affecting to act as agent for Stacey, and upon Stacey's account; this sum Mr. Robinson at once returned when he found how it had been obtained. The conduct of this solicitor throughout was, so far as appears, honourable and straightforward.

I do not think it necessary to go through the somewhat voluminous evidence. At the conclusion of the case, I intimated what my impressions then were, and what I should find as facts unless these impressions were shaken by argument or by the perusal of the evidence of the defendant. After hearing argument and after reading that evidence, these findings I now make, and they may be referred to in case of further proceedings.

The defendant alleges that this sum of \$5,000 was a gift. I find that it was not a gift; that the old man was induced by fraud to sign the blank cheque, it being represented that it was for a small sum only, and that as a loan; that in his then mental condition he was not able to thoroughly appreciate the effect of what he did; and that he repudiated it as soon as he could understand what he had done. No authority is needed for the proposition that with such a finding