

"theatre, kindly let me have full particulars. Yours very truly, (Signed) R. Rodden."

Below the signature in pencil marks, is the same information, slightly amplified, as was referred to.

The card appears to be an answer to the demand for information. Plaintiff alleges that this information was false and that he was deceived thereby, and that otherwise he would not have entered into the transaction.

The defendant denies any fraud on his part. Defendant was a man who was not able either to read or write. It appears he had in his employment for a year or more, one Mack, who at the time of the trial had gone to Chicago. Mack was the manager of the theatre and had a salary from the defendant of \$25 a week, besides a commission on receipts exceeding \$300 per week.

Mack appears to have communicated to the plaintiff what is stated to be a fact, that the defendant had kept two sets of books, one a true set and the other a false set, and that this was done with the intention of being able by the production of the false set to show higher revenues from the theatre than it really produced, and to deceive purchasers. Mack was examined by the plaintiff on a commission rogatoire, and swears to those facts or allegations, and indeed Mack's evidence is the only evidence which would go at all to support false representations on the defendant's part.

I have said that the proof establishes that the defendant was unable to keep any books or to read what a book would contain. If two sets of books were kept, they were both kept by Mack, and the defendant's attorneys suggest in their factum that if two sets of books were kept and one of them was false, the object of Mack in keeping the false set of books was not to deceive purchasers but to deceive