

he also endorsed two cheques for \$20 each and his wife got them cashed. The cheques themselves say on their face "this amount being in final settlement of claim known as number 2731 on the records of the claim's agent of this company."

The evidence may be summarized as follows: The plaintiff swears, "I don't mind putting my signature there, I don't remember seeing Heyd (the Grant Trunk agent at Owen Sound) at the hospital. I had not consulted a lawyer or made any claim on the Grand Trunk in the hospital. I don't remember getting the money on the cheque." His wife swears that "his memory is not of much account. He would talk with me one day and argue with me the next day that I had not been there the day before." Oscar Arkles, son of the plaintiff, says that "when he was in the hospital, some times he would know me and some times not; he does not remember things. I did know what was in them when I took the cheques to mother. Father told me to take them home to mother." Arthur Little said that he knew plaintiff and saw him three or four times in the hospital and that the plaintiff did not recognize him. Samuel Graham knew him a week or two and saw him about two weeks after the accident and thinks that plaintiff knew him.

For the defence was called Brown, foreman for Wright and Company. Plaintiff told Brown he had made a settlement. Brown had warned him not to make any settlement until he went out. Dr. Dow was sent for by Wright and Company. "I never knew there was anything the matter with the man mentally. He recognized me from day to day." (He was 50 days in the hospital). J. G. Heyd, Grand Trunk agent at Owen Sound, says plaintiff was certainly sensible enough when he and Shepherd, the claims agent, were there. Shepherd handed the release to the plaintiff to read, and also read it over to him and asked him "Do you understand it?" The answer was "Yes, I guess it is all up with me now."

Shepherd, the claims agent, "I read it to him and he read it over and signed it. He recognised me. I told him we would not recognize any liability, but were willing to help him out financially. He said 'Is that the best you can do for me,' and I said 'Yes.' He read the release and handed