I find the above documents to agree so completely with the statement of the defendant as to what occurred when Scully made his demand and to be so entirely inconsistent with the plaintiff's statement that I feel compelled to give effect to the documents rather than to the plaintiff's evidence, and to accept defendant's evidence that Scully's claim at the time he made the demand for the settlement, was for $1,000 plus the commission.

I am not unmindful of the rule that "when a finding of facts rests upon the result of oral evidence, it is in its weight hardly distinguishable from the verdict of a jury, except that a jury gives no reasons. *Lodge Holes Colliery* v. *Wednesbury*, [1908] A. C. 326.

But as was said in *Coghlan* v. *Cumberland*, [1898] 1 Ch. 705; "There may obviously be other circumstances quite apart from manner and demeanor, which may shew whether a statement is credible or not, and these circumstances may warrant the Court in differing from the Judge, even on a question of fact turning on the credibility of witnesses whom the Court has not seen."

Such "circumstances" I think these documents afford to lead to the conclusion that the most that Scully claimed to be due from the defendant, prior to the issue of the writ, was $1,000 plus $250 for commissions.

Resting my judgment accordingly upon the documents I think the plaintiff's claim should be reduced by $1,000.

As to the balance of the $2,000, the receipt is of a very ambiguous nature. It is in such form as one might expect to be given in a betting transaction, and although my confidence in Scully's evidence as against the defendant is much shaken, by reason of his claim for $2,000 instead of $1,000 balance, and his denial that he had ever claimed $1,000 balance, yet there is not sufficient documentary or other independent evidence to enable me, having regard to the findings of the trial Judge, to find in favour of the defendant with respect to the remaining $1,000.

I would vary the judgment by reducing it to $1,000 and give no costs of appeal.