

the usual entries in the ordinary course of business, and during business hours of the 2nd October Evans's cheques were honoured to an extent which shewed an overdraft of \$331.55 at the close of the day, unless he was entitled to credit for the proceeds of the discount alleged to have been made on the previous day. It also appears that on the morning of the 3rd October Simpson received a telegram from the head office at Montreal instructing him to discontinue discounting for Evans, as his statement was most unsatisfactory, but, nevertheless, the proceeds of the discount of these notes was placed to his credit, and his cheques to the amount of \$725 were honoured.

Against these circumstances it is shewn that on 1st October Simpson wrote to the manager of plaintiffs' branch at Brampton, where Irvine resided and carried on business, requesting him to give his opinion in confidence as to Irvine's means, character, and standing, and to say what he would consider of him as an indorser on the notes of Grimshaw to the extent of \$1,500; that on 2nd October he enclosed the notes to the manager at Brampton, with a request to obtain Grimshaw's initials to certain alterations; and that as a fact the proceeds of the notes were not entered to the credit of his account in the ledger until the morning of 3rd October.

It may be that these circumstances standing alone would not outweigh the direct testimony of Simpson and Evans, fortified by the first mentioned circumstances.

But on the night of 2nd October an interview took place between Simpson, Irvine, and Mr. Heggie, a solicitor practising at Brampton, who accompanied Irvine at his request. Irvine and Heggie testify that at this interview Simpson, in answer to a question from Heggie, informed them that the notes had not been discounted, that they were being held pending inquiry as to Irvine's rating, and that they had been sent to Brampton for Grimshaw's initials to some changes. Simpson was then informed very fully of the circumstances under which Irvine's indorsement had been obtained, and told that he must not discount them, and he was asked not to let them get back into Evans's hands until proceedings could be taken to prevent him from negotiating them. Simpson said he thought he could aid them in this, as the notes had been sent to Brampton. To this testimony Simpson gives a denial. He says he told them that the notes were discounted, and after that there was very little other conversation that he can remember.

On the evening of 3rd October Irvine and Heggie again called on Simpson. They had been advised to serve a notice in writing, and they did so. The notice was to the effect that