

SCULLY V. RYCKMAN—LENNOX, J.—FEB. 20.

Money Lent—Action to Recover—Conflict of Evidence—Finding of Fact—Betting—Illegality.]—Action to recover \$2,000 said to have been lent by the plaintiff to the defendant, \$250 alleged to have been advanced by the plaintiff to the defendant in connection with betting at the Woodbine races, and \$450 for interest: in all, \$2,700. LENNOX, J., said that the plaintiff was not entitled to recover in respect of the \$250 alleged advances made for the defendant in connection with betting. The plaintiff was not able to say whether the alleged advances were of the class recoverable at law; and, as the claim failed by reason of this uncertainty, there was no necessity for weighing the testimony of the plaintiff and defendant upon this branch of the case. As to the alleged loan of \$2,000, the plaintiff produced a receipt for \$2,000, dated the 28th September, 1908, upon a printed form, filled up and signed by the defendant. The defendant admitted that he got \$2,000 from the plaintiff upon that day; the defendant said that it was not a loan, but a dividend on book-making transactions. The learned Judge, reviewing the conflicting evidence, concludes that the plaintiff is telling the truth when he swears that he lent the defendant \$2,000 on the 28th September, 1908, and that the defendant obtained the loan by representing himself as being hard pressed. Judgment for the plaintiff for \$2,000 and interest from the 29th December, 1909, with costs. J. P. MacGregor, for the plaintiff. K. F. Mackenzie, for the defendant.