

King Edward hotel and there (originally, he said, in presence of plaintiff's brother) the plaintiff counted out and gave him, from a large amount of money which the plaintiff had in a box in his room, the \$2,000 in question as a dividend upon the defendant's \$1,000 investment, and offered him \$1,000 more. The defendant says that he then insisted upon giving the plaintiff the receipt in question, as otherwise the \$1,000 would perhaps be enforced against the plaintiff; and to this end he sent out and procured the printed form used, but he did not at any time make any entry of the receipt of the \$2,000. He says he did not accept the additional \$1,000 as that would have paid him in full and put him out of the bookmaking profits. I cannot see this, as he was on his own story then entitled to \$3,600, or two-fifths of \$9,000, in dividends alone. However, in any case I regret to say that I cannot accept the defendant's recollection upon this point.

It was certainly unfortunate—though still consistent with perfect honesty—that the defendant found himself compelled in Court to suggest a modification of his previous testimony as to some of the circumstances attending the payment over of this money. The plaintiff and his brother both swear that all the money was kept in the hotel vault. Be this as it may, the sending out for a receipt, the guarding of the plaintiff's interests, and the neglect to guard his own—and in the same way the calling up from time to time of the letters, telegrams and memoranda calculated to corroborate the defendant, and intentionally, not accidentally, destroying these documents—these doings, while they may all have occurred, are not what I would have looked for to occur.

On the other hand, I believe the plaintiff, corroborated as he is by Fowler, when he swears that this money—the whole \$2,500 called “a roll”—was lost at Toronto and Hamilton, at the race meetings in the autumn of 1907, and that the defendant knew it was lost; and further—for it is sworn to and not denied—that the defendant himself, by betting against this “roll,” won \$2,000, and so helped to bring about the bank's collapse.

I am pressed by the argument that the defendant is and was a wealthy man, and therefore it is almost inconceivable that he would borrow money. I do not know. I have only the same evidence of this that I have in denial of the