

him out" contrary to this qualifying agreement. The learned Judge finds that the parties dealt with each other upon the basis and in the terms of the writings (the sale-notes).—The action should be dismissed, subject to the question whether the defendants have been overpaid in respect of commissions. No costs to either party as against the other. Peter White, K.C., and J. S. Duggan, for the plaintiff. Hamilton Cassels, K.C., and R. S. Cassels, K.C., for the defendants.

McCARTNEY v. McCARTNEY—FALCONBRIDGE, C.J.K.B.—
APRIL 26.

Improvements—Infant Put in Possession of Land by Grandfather—Representations Inducing Belief that Land Given to Infant—Lien for Improvements—Recovery of Possession—Costs.—Action to recover possession of land and for damages and other relief. The action was tried without a jury at Guelph. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the plaintiff was the father of the adult defendant and the grandfather of the infant defendant. The Chief Justice finds that the claims of the plaintiff and the adult defendant the one against the other fairly balance each other, and declares that there is nothing due or owing from the one to the other. It was proved to the satisfaction of the Chief Justice that the plaintiff, by representations and acts—in particular by the delivery of a deed of the land and of a will which he had executed in the infant's favour—induced both defendants to believe that he had given the land to his grandson, the said infant; and the plaintiff had put the infant in possession thereof. On the faith of such representations and belief, the infant had worked on the land ever since he was able to work, and had, with the assistance of his father and by hired labour, permanently improved the land to the amount of at least \$350, and he had not received for his own use any of the produce of the land or the price or value thereof. If the plaintiff now insists upon evicting the boy, it should be only on terms of paying into Court for him (the infant) the said sum of \$350. In all his findings of fact, the learned Chief Justice had taken into account the demeanour of the parties and their witnesses. No costs. R. L. McKinnon, for the plaintiff. H. Guthrie, K.C., and J. A. Mowat, for the defendants.