

answers, knew them to be untrue. But the jury had found that these representations were not material, and they had negatived fraud.

After a close consideration of the evidence, the learned Judge said that he was of opinion that the findings of the jury that the answers were not material and that there was no fraud must be set aside as unsatisfactory.

In his opinion also, the case was one in which the Court should exercise the powers conferred by sec. 27 of the Judicature Act and pronounce final judgment instead of directing a new trial. If the case were sent down for a second trial, no fresh evidence could usefully be given on behalf of the plaintiff, and the Court had all the materials before it to enable it to deal finally with the case.

The appeal should be allowed with costs and the action be dismissed with costs.

*Appeal allowed.*

SECOND DIVISIONAL COURT.

DECEMBER 20TH, 1920.

FORBES v. DAW.

McGREGOR v. DAW.

*Fire—Setting out on Farm—Destruction of Property on Adjoining Farm and one more Remote by Spreading of Fire—Absence of Negligence—Finding of Jury—Bringing Dangerous Thing on Premises—Liability for Escape—Municipal By-law Requiring Notice to Adjoining Owner—Pleading—Exclusion of Evidence—Amendment—New Trial—Costs.*

Appeals by the plaintiffs from judgments of the Judge of the County Court of the County of Grey, upon the findings of a jury, dismissing actions brought to recover damages alleged to have been suffered by the plaintiffs, respectively, from fire spreading to their lands by reason (as alleged) of the negligence of the defendant in setting fire to the bush upon his land. The actions were tried together.

The appeals were heard by MULOCK, C.J. Ex., MAGEE and HODGINS, J.J.A., and MASTEN, J.

G. H. Kilmer, K.C., for the appellants.

W. H. Wright, for the defendant, respondent.