

SNITZLER ADVERTISING CO. v. DUPUIS—FALCONBRIDGE, C.J.K.B.
—Nov. 17.

Account — Reference — Procedure — Direction to File Statement of Account—Settled Account—Surcharge.]—Appeal by the plaintiffs from a ruling of the Local Master at Sandwich, upon a reference to take accounts, that the plaintiffs should file a statement of account. The appeal was heard in the Weekly Court at Toronto. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the formal judgment, as varied by the Divisional Court, was all that he had any right to regard, and it left the matter absolutely at large. The Master seemed to have proceeded in an entirely regular way—and the true method of determining the amount due, if any, was to find out what the plaintiffs paid. If they had a settled account, it was for them to allege and prove it. It was not easy to see how the defendant could surcharge and falsify on accounts presented as the plaintiffs insisted they ought to be presented. To give effect to the plaintiffs' contention would be virtually to try here some of the matters which had been referred to the Master. His direction in the premises seemed quite proper and reasonable. Appeal dismissed. Costs to the defendant in any event. T. Mercer Morton, for the plaintiffs. H. J. Scott, K.C., for the defendant.

MYLAM v. RAT PORTAGE LUMBER CO. AND FRASER—LENNOX, J.
—Nov. 17.

Trespass — Timber — Conversion — Damages — Evidence — Counterclaim.]—The plaintiff claimed \$4,000 for trespass to land and conversion of timber etc. The defendants denied the plaintiff's title and disputed their liability; the defendant company brought into Court \$236.72, and counterclaimed to recover \$225. The action was tried without a jury at Port Arthur. LENNOX, J., in a written judgment, said that the plaintiff had established a cause of action. There was no certain measure of damages; but, even with this admitted, and the speculative character of the plaintiff's mining rights kept in mind, much of the evidence for the plaintiff, in addition to being rather hazy, was very exaggerated. The estimate of damages made by the plaintiff's chief witness and Canadian representative, J. S. Whiting, when he promoted an action for Mrs. Whiting some years ago, ought to steady one who attempted to follow the figures to the dizzy heights