

CRAVEN v. CAMPBELL—FALCONBRIDGE, C.J.K.B.—MARCH 19.

*Fraud and Misrepresentation—Inducement for Making Contract—Evidence—Reckless Statements Made without Regard to Truth or Falsehood—Delay in Asserting Rights—Absence of Prejudice—Estoppel—Refusal of Leave to Amend.*]—Action for rescission of an agreement on account of misrepresentations made by the defendant which induced the plaintiff to enter into the agreement, for a declaration of the nullity of everything done under the agreement, and for damages. The action was tried without a jury at a Hamilton sittings. FALCONBRIDGE, C.J.K.B., in a written judgment, said that he accepted as true the evidence of the plaintiff as to the representations made by the defendant which induced plaintiff to enter into the contract. Those representations were in fact false. The plaintiff seemed to hesitate about charging fraud—saying, “For all I know he may have believed his statement about the value of the property,” and “the defendant may have been as innocent as I was.” But the misrepresentations, if not in fact fraudulent, were so recklessly made, without knowing or caring whether they were true or not, that the legal effect was the same. The chief difficulty in disposing of the case arose from the fact that the plaintiff had allowed so long a time to elapse before asserting his rights, after he discovered or ought to have discovered the imposition which had been practised upon him. But the situation of the parties had not been in any substantial way altered either by the delay or by anything done during the interval. There should be judgment for the plaintiff as prayed with costs, with a reference to the Master at Hamilton. The defendant should not be allowed to amend his statement of defence, as proposed, by setting up an estoppel. George Lynch-Staunton, K.C., for the plaintiff. F. H. Thompson, K.C., for the defendant.

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MISNER v. ANDERSON—LENNOX, J.—MARCH 19.

*Negligence—Collision of Vehicles in Highway—Finding of Jury—Negligence of Defendant “to a Slight Extent”—Small Amount of Damages Awarded—Costs.*]—The plaintiffs (father and son) claimed damages for injuries sustained in a collision of the defendant’s automobile with their horse and buggy on a highway. The harness and buggy were damaged. The action was tried with a jury at Sarnia. LENNOX, J., in a written judgment, said that the plaintiff Frank Misner swore that he had three ribs broken, that he had been pretty much incapacitated for work since the 28th September last, that he still suffered pain at times, and that he was not completely recovered. As to the personal injuries he was, in