

posed to have some interest. In the hypothetical bill fifty dollars is charged for this; an item well calculated to shock.

One solicitor attended on the reference, to represent certain beneficiaries. He would under the tariff be entitled to a fee not exceeding twenty dollars. The Judge recommends an increase to twenty-five dollars.

When this tariff was prepared, after very careful conference with the Board of County Judges, it was thoroughly understood that only in exceptional cases should the prescribed limit to the fee be exceeded. The learned Judge appears, I think erroneously, to have regarded the application for an increase as one that may be lightly made.

The recommendation cannot be approved, and the order should be amended accordingly.

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

APRIL 1ST, 1914.

SMITH v. HAINES.

6 O. W. N. 150.

*Fraud and Misrepresentation — Purchase of Shares in Company—
Action to Set Aside—Necessity of Clear Proof of Fraud—Evi-
dence—Dismissal of Action—Costs.*

FALCONBRIDGE, C.J.K.B., 25 O. W. R. 797, 5 O. W. N. 866, held, that where fraud is alleged in a civil action the party alleging it must prove it clearly and distinctly, a slight preponderance of the evidence in his favour not being sufficient.

Mowatt v. Blake, 31 L. T. R. (O. S.) 387, referred to.

SUP. CT. ONT. (2nd App. Div.) reversed above judgment and ordered new trial.

Appeal by the plaintiff from a judgment of HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B., 25 O. W. R. 797, dismissing the action without costs.

The appeals to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE MAGEE, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

I. F. Hellmuth, K.C., and W. J. Elliott, for the appellant.

R. McKay, K.C., for defendants.