

THE
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No. 3

HON. SIR G. FALCONBRIDGE, C.J.K.B. FEB. 25TH, 1913.

CANADIAN LAKE TRANSPORTATION COMPANY v.
BROWNE.

4 O. W. N. 880.

*Principal and Agent—Moneys Due by Agent—Counterclaim—Evidence
—Reference—Costs.*

FALCONBRIDGE, C.J.K.B., gave plaintiffs judgment for \$1,447.72, moneys had and received by defendants as agents for plaintiffs, but found in defendant's favour as to a counterclaim set up for damages on account of plaintiff's alleged wrongful acts and directed a reference to ascertain the amount of such damages.

Costs of action to plaintiffs of counterclaim to defendants.

Tried at Hamilton.

G. Lynch-Staunton, K.C., and T. Hobson, K.C., for the plaintiffs.

E. F. B. Johnston, K.C., and J. G. Gauld, K.C., for the defendants.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—
There is no dispute about plaintiffs' claim and they are entitled to judgment for \$1,447.72 with interest from 19th December, 1911, and costs.

The dispute was as to defendants' counterclaim (1) loss to defendants by reason of plaintiffs' wrongfully unloading a shipment of wire ex Str. Regina at the wharf of another wharf instead of at defendants' wharf. (2) A claim for \$792 for checker's wages for 1908-1909-1910. (3) Defendants allege a five-year contract and claim damages for plaintiff setting up a three-year contract and refusing to let their boats use defendants' dock for 1911 and 1912.

I am not passing on the demeanour of witnesses when I find the preponderance of evidence to be in defendants' favour as to all these items of counterclaim.