

TUCKER v. TITUS—TITUS v. TUCKER—FALCONBRIDGE, C.J.K.B.
—SEPT. 1.

Fraud and Misrepresentation — Exchange of Properties — Mortgage—Evidence—Findings of Fact of Trial Judge—Damages.]—These two actions arose out of the same transactions as the former action of Tucker v. Titus (1913), 4 O.W.N. 1402, which was an action for rescission of certain contracts, on the ground that they were induced by the fraud and misrepresentation of the defendant. That action was dismissed, without prejudice to an action for damages for deceit. The new action of Tucker v. Titus was brought for an injunction restraining a sale of the land in question under a mortgage. The action of Titus v. Tucker was to recover possession of the land; and in that action Tucker counterclaimed for \$8,000 damages for deceit. The learned Chief Justice said that he had no hesitation in accepting Tucker's version of the transactions as being in the main true, and that he had been made the victim of a gross and cruel fraud whereby he traded his good farm for a property in Trenton of less value and gave a mortgage on the latter for \$6,900. Tucker believed the false statements made by Titus, acted on them, and so was led to his destruction. Tucker's damages were assessed at \$7,000; and judgment was given for him in both actions with costs. The learned Chief Justice adds that interest would not run on the mortgage; so, in the final result, if Titus discharges the \$6,900 mortgage and pays Tucker \$100 and the costs of both actions, the parties will be in their proper positions. E. G. Porter, K.C., and F. H. White, for Tucker. I. F. Hellmuth, K.C., and A. Abbott, for Titus.

SHOREY v. POWELL—FALCONBRIDGE, C.J.K.B.—SEPT. 3.

Principal and Agent—Agent's Commission on Sale of Land.]—The plaintiff sued for \$1,000 as commission on the sale of lands for the defendant. Upon the weight of evidence, the learned Chief Justice finds that the plaintiff is entitled to a commission of \$250, from which is to be deducted \$151 collected by him. Judgment for the plaintiff for \$99 with County Court costs and no set-off. E. G. Porter, K.C., and F. H. White, for the plaintiff. R. U. McPherson, for the defendant.