

by her own evidence and the testimony of other witnesses, if present: Criminal Code, sec. 715; and she should have been distinctly asked whether she desired to give evidence before the charge was adjudicated upon. There was every reason to believe that the prisoner's evidence was shut out; but that was not the determining factor.

There was no offence charged to support the conviction, and no evidence to support the charge as laid. There was not one word of evidence to shew that either Dorothy or Gordon Neville was a juvenile delinquent. And there was no legal offence charged. The only provision of law referred to as affording any support was sec. 29 of the Juvenile Delinquents Act, 1908, 7 & 8 Edw. VII. ch. 40, and that was manifestly insufficient.

The prisoner was not properly before the Court, and there was no jurisdiction to reprimand or punish.

The Deputy Commissioner acted in good faith.

*Prisoner discharged.*

BRITTON, J.

JUNE 18TH, 1915.

DUBE v. ALGOMA STEEL CORPORATION LIMITED.

*Negligence—Death of Person Operating Derrick—Negligence of Owner of Derrick—Negligence of Hirer—Findings of Jury—Evidence—Contributory Negligence.*

Action by Mary Dube, widow and administratrix of the estate of Martin P. Dube, deceased, on behalf of herself and children, to recover damages resulting from the death of Dube from one or both of the two defendants, the Algoma Steel Corporation Limited and the Lake Superior Paper Company Limited.

A travelling derrick owned by the paper company was, with its crew—consisting of the deceased, as engineer, and a fireman—hired by the steel corporation to do some work upon its premises. The derrick was taken by the crew to the steel corporation's premises; and, while it was upon those premises, and while Dube was lifting by the derrick an iron tank of the steel corporation from one side of the track to replace it upon a flat car on the other side of the track, the derrick was overturned and fell, in its fall instantly killing Dube.