

Co., 24 S.C.R. 611; St. Mary's Creamery Co. v. Grand Trunk R.W. Co., 8 O.L.R. 1) the policy of the legislation, which received its present form in the year 1903 (see 3 Edw. VII. ch. 58, sec. 275) apparently is to remit the question of what is a fair and reasonable contract between the carrier and the shipper to the Railway Board.

Such a policy, tending to secure reasonableness and justice between the parties, as well as definiteness and certainty in contracts which from their former obscurity were so often the subjects of litigation, is I think wise and useful, and entitled to receive a liberal interpretation for the purpose of enabling it to accomplish its obvious purpose. And so regarding it I have no hesitation in holding that the contract in question was one the approval of which was well within the powers of the Board.

I would, for these reasons, allow the appeal and dismiss the action with costs.

MACLAREN, and MEREDITH, JJ.A., concurred in allowing the appeal, the latter giving written reasons for his opinion, while MAGEE, J.A., and LENNOX, J., dissented from the judgment of the majority of the Court, both giving written reasons, and were in favour of dismissing the appeal.

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COURT OF APPEAL.

NOVEMBER 19TH, 1912.

McCLEMENT v. KILGOUR MANUFACTURING CO.

*Master and Servant—Injuries to Servant—Dangerous Machinery in Factory—Proper Guarding—Negligence—Contributory Negligence—Evidence for Jury—Findings—Factories Act—Statutory Duty—Voluntary Assumption of Risk.*

Appeal by the defendants from the judgment of a Divisional Court affirming the judgment at the trial before BRITTON, J., and a jury, in favour of the plaintiff (3 O.W.N. 446, 999).

The appeal was heard by GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A., and LENNOX, J.

T. N. Phelan, for the defendants.

W. N. McClement, for the plaintiff.

MEREDITH, J.A. :—The jury found that the plaintiff was not guilty of contributory negligence, with which finding their find-