

large plates; the smaller ones were handled by men called in for the occasion from other work. It was left to the discretion of the foreman as to how many men should be employed in lifting the smaller plates, and if he erred in judgment or was negligent in putting on the men too heavy a load it was the fault of the foreman who was no more than a fellow servant, and so (as before the Workmen's Compensation Act) the master was not liable. The judgment should be affirmed. No costs.

Young v. Hoffman, [1907] 2 K. B. 646.

It would be well to verify the weight of the small plate: to the man who lifted and strained himself it seemed half a ton: to the foreman who looked on, about 300 pounds; the truth probably lies between.

HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE MIDDLETON, and HON. MR. JUSTICE LEITCH, agreed.

HON. MR. JUSTICE LENNOX.

JANUARY 13TH, 1914.

LANGWORTHY v. McVICAR.

5 O. W. N. 767.

Husband and Wife—Validity of Alleged Marriage in Issue—Collaterally in Action—Right of Court to Enquire into—Chamber Order—Leave to Appeal Refused—Con. Rule. 507.

LENNOX, J., refused leave to appeal from an order refusing to strike out of certain defences herein an allegation that the applicant was not legally married to a testator holding that the Court had power to enquire into the validity of alleged marriages when it incidentally or collaterally became necessary to do so.

Re A. B. L. R. 1 P. & D. 559 and Prowd v. Spence, 10 D. L. R. 215, referred to.

Motion by defendant McVicar for leave to appeal from the order of HON. MR. JUSTICE MIDDLETON in Chambers, affirming an order of the Senior Registrar in Chambers refusing to strike out of the defences of each of the other defendants a clause whereby it was alleged that the applicant was not the wife of the testator, whose estate was in question.

J. Haverson, K.C., for the widow.

J. W. McCullough, for Christina Kains.

Featherston Aylesworth, for other defendants.