

TON, J.J.), said that the common law obligation of the master is to maintain a suitable and safe place, machinery, and appliances for the work to be done, and to warn the servant of all dangers known or which ought to be known to him—unless already known to the servant. The jury have found that the master was negligent in removing the third guy from the derrick without first making the boom fast by anchoring it, and so securing the stability of the whole until this was brought about by the placing of the "stiff legs." This was the cause of the accident. The jury have found that there was no contributory negligence. The deceased was lawfully upon the premises, and the fact that, at the time the derrick fell, he was climbing the mast, is a mere incident, unless his so doing amounted to contributory negligence. The appeal should be dismissed with costs. M. Wright, for the defendant. W. S. Morden, K.C., for the plaintiffs.

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DURYEA V. KAUFMAN—RIDDELL, J., IN CHAMBERS—DEC. 28.

*Pleading—Particulars—Statement of Defence—Patents for Invention—Infringement—Invalidity.*]—Appeal by the plaintiff from the order of the Master in Chambers, ante 336, so far as by it he refused to strike out the part of the statement of defence of the defendant company attacking the validity of certain patents. RIDDELL, J., said that the pleadings were much as when the case was before him on a former application: 21 O.L.R. 166, 1 O.W.N. 773. There were two matters which appeared to be distinct: (1) the patents for modified starch and for maltose; and (2) the glucose processes. (1) As to the modified starch and maltose patents, the plaintiff in his statement of claim says (paragraphs 2, 3, 4) that he owns them; (paragraph 9) that the company were manufacturing by these processes during the currency of the agreement; and now (paragraph 14) claim to have acquired the Canadian commercial rights under the maltose patent, and that they are entitled to use the same, but this the plaintiff denies; and (paragraph 32) the company have since the 1st January, 1909, in violation of the rights of the plaintiff, made use of and sold to others modified starch made and manufactured according to and by using the plaintiff's processes and special personal confidential methods, and intend to do so; (paragraph 40) they since the 1st January, 1907, manufactured and still are manufacturing modified starches and glucose according to the plaintiff's patented processes and special personal confidential methods, though, if entitled so to manufacture,