

Sup. Ct.]

NOTES OF CANADIAN CASES.

[Sup. Ct.]

the judgment of the Common Pleas Division, 5 O. R. 189, that the death of P. C. dissolved the said firm of C. & Sons, and put an end to the contract of suretyship.

Appeal allowed with costs.

MacLennan, Q.C., and O'Gara, Q.C., for appellant.

Osler, Q.C., for respondents.

GRAND TRUNK RAILWAY COMPANY V.
BOULANGER.

*Accident—Loss of Life at ferry wharf—Company
—Liability of—Damages.*

Appeal from Quebec.

L. B. brought an action of damages against the G. T. R. Co. for the loss of her husband, L. H. F., who was drowned on the night of the 6th of November, 1883, by falling off the pontoon in the River St. Lawrence at the wharf owned by the company in the city of Quebec, when he was going to cross over to Levis by the company's ferry between Levis and Quebec, on his way to take the cars at Levis, and alleged her husband's death had been caused by the default and negligence resulting from his own imprudence and of the company's in not having put rails, guards and gates, and lights sufficient to ensure the safety of passengers. The company contended there was sufficient light, and that they were not bound to have guards or gates. At the trial there was evidence that this was a dangerous place, being a dark narrow passage leading down to the ferry; that two lights were usually lighted, and that only one was lit on the night of the accident. That after the accident two were lighted and a chain placed across the end of the passage, so as to prevent persons falling off the pontoon when the ferry was not at its moorings. The Superior Court found there was sufficient light, and dismissed the plaintiff's action on the ground that the death of the respondent's husband resulted solely from his own imprudence, negligence and want of care.

The Court of Appeal reversed the judgment of the Superior Court, and awarded \$1,000 damages to the plaintiff. On appeal to the Supreme Court of Canada,

Held, that the evidence showed culpable

negligence on the part of the railway company in not having sufficient lights, and in not having a gate or chain to guard against accidents.

That damages should not be increased, but interest should be allowed by the Court of Queen's Bench from the date of the demand.

BEATTY (Defendant), Appellant, AND OILLE
ET AL. (Plaintiffs), Respondents.

New trial—Verdict for plaintiff—Technical breach of contract—Defendant entitled to nominal damages for.

Appeal from the Court of Appeal for Ontario.

In an action to recover the balance of the contract price for work done for the defendant, the declaration also containing the common count for work and labour, the evidence showed that there was a technical breach of the contract, by which, however, the defendant had sustained no substantial damage. A verdict was found for the plaintiff, and a rule for a new trial was refused by the Divisional Court and also by the Court of Appeal.

Held, affirming the decision of the Court of Appeal, that a verdict would not be set aside merely to enter a verdict for the other party for nominal damages.

Appeal dismissed with costs.

S. H. Blake, Q.C., and McDonald, Q.C., for appellants.

Osler, Q.C., and Cox, for respondents.

ONTARIO AND QUEBEC RAILWAY COMPANY
(Appellants), AND PHILBRICK (Respondent).

Railway company—Lands taken for railway purposes—Arbitration—Award—Matters considered by arbitrators—Costs.

Appeal from the Court of Appeal for Ontario.

A railway company, having taken certain lands for the purposes of their railway, made an offer to the owner in payment of the same, which offer was not accepted and the matter was referred to arbitration under the Con. Railway Act, 1879. On the day that the arbitrators met the company executed an agreement for a crossing over the said land in addition to the money payment, and it appeared