

[Jan. 27.]

FAKKEMA v. BROOKS SCANLON O'BRIEN COMPANY.

Master and servant—Injury—Defective system—Voluntary acceptance of risk—Common employment—Verdict of common law or under Employer's Liability Act.

Plaintiff's duty in a logging camp was to work a donkey-engine intended to extricate logs which might become jammed or stopped in their progress down a long chute leading to the water. The engine was placed near the water and close to the foot of the chute, down which the logs came with considerable speed. There was a foreman in charge of the logging operations, and plaintiff was subject to the directions of such foreman. The latter had made two changes in the position of the engine within a few days, the place it occupied at the time of the accident being the first location. There was no dispute as to the foreman's fitness. A log coming down jumped the chute and, striking the plaintiff, broke his leg and carried him into the sea.

Held, following *Ainslie Mining and Ry. Co. v. McDougall* (1909), 42 S.C.R. 420, that the system was defective, and that the verdict of the jury giving common law damages should stand.

Observations per MARTIN, J., as to desirableness of submitting questions to the jury in negligence actions.

Bodwell, K.C., for appellant. *Woodworth*, and *Smith*, for respondent.

Book Reviews.

The Examination of Witnesses in Court, adapted for the use of English readers, and revised to date. By FREDERIC JOHN WROTTESELEY. London: Sweet & Maxwell, 3 Chancery Lane. 1910.

This very interesting book is founded on the "Art of winning cases," by Henry Hardwicke of the New York Bar, and the "Advocate," by Edward W. Cox, Serjeant-at-law.

Mr. Wrottesley, in view of the difference in practice between the two countries, abandoned an attempt to adopt part of Mr. Hardwicke's book relating to discovery, etc., and gives instead a general sketch of the manner in which evidence, documentary or otherwise, is obtained from any opponent before the