

Not only must an authorised act be done in a reasonable way and without negligence, but the statutory or authorised power must not be exceeded. Whatever rights the defendants acquired in respect of this highway, they did not include the erection and maintenance thereon of this switch.

No one saw the accident happen; but it could have happened only from an engine or train passing over the man; it was open to the jury to draw the conclusion they did.

There was no evidence that the deceased was negligent.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

JUNE 12TH, 1918.

*BOSTON LAW BOOK CO. v. CANADA LAW BOOK CO.
LIMITED.

*Parties—Addition of Defendants—Rule 67—Improper Joinder—
Distinct Contracts between Different Parties—Service on Added
Defendants out of the Jurisdiction—Rule 25 (1) (g)—Discretion
—Service Set aside.*

Appeal by the plaintiffs from the order of MIDDLETON, J.,
ante 162.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, RIDDELL,
SUTHERLAND, and KELLY, JJ.

Alfred Bicknell, for the appellants.

R. H. Parmenter, for W. Green & Son Limited and Stevens &
Sons Limited, added as defendants, respondents.

R. T. Harding, for the original defendants.

THE COURT dismissed the appeal with costs.