

after first perjuring himself in the hope of escaping conviction.

I would answer the second question in the negative, and direct that the accused be discharged.

MAGEE, J.A., gave reasons in writing for the same conclusion.

MOSS, C.J.O., GARROW and MACLAREN, JJ.A., also concurred.

HIGH COURT OF JUSTICE.

RIDDELL, J.

APRIL 4TH, 1912.

MERCANTILE TRUST CO. v. CANADA STEEL CO.

Master and Servant—Injury to and Death of Servant—Dangerous Work—Warning—Negligence—Lack of Proper Appliances—Negligence of Servant—Findings of Jury—Prohibited Act—Inadvertence—Absence of Express Finding of Contributory Negligence.

Action brought by the administrators of a deceased Italian labourer for damages for negligence resulting in his death.

A. M. Lewis, for the plaintiffs.

J. W. Nesbitt, K.C., for the defendants.

RIDDELL, J.:—The defendants were building a blast furnace—this consisted of a steel jacket, in the form of what may, with sufficient accuracy, be described as a vertical cylinder. This jacket was over 60 feet high, and was being lined with firebrick at the time of the accident. The lining was effected in this way. Beginning at the bottom with the firebrick, when the lining had been inserted to a certain height, a new floor was put in at a height of 4 ft. 6 in. above the bottom floor, and from this another ring of firebrick was put in place—then another floor was put in 4 ft. 6 in. above the second floor, and so on, a new floor being made at each 4 ft. 6 inches. In order to permit of the firebrick, fire clay, etc., being sent up to the bricklayers, a square shaft was inserted, running from the bottom to the floor upon which operations were being carried on—this shaft could not be put in the