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BRITTON, J.

AUGUST 1ST, 1902.

TRIAL.

PIGGOTT v. TORONTO RUBBER SHOE MANUFACTURING CO.

*Building Contract—Materials Supplied not Covered by Contract
—Damages—Arbitrator—Bias of—Lien.*

Action tried at Hamilton and Toronto, brought by the plaintiff, a contractor, against the defendant company to recover the cost of work done and materials supplied, which were not covered, or only partly covered, by the contract for the construction of certain works for a hydraulic power system at Port Dalhousie. The plaintiff also sought to have the defendant Hillman declared disqualified to act as arbitrator on the ground of bias against the plaintiff, and to enforce his registered lien against certain other defendants who claimed some interest in the property in question.

Wallace Nesbitt, K.C., G. Lynch-Staunton, K.C., and E. F. Lazier, Hamilton, for plaintiff.

R. C. Clute, K.C., and J. A. MacIntosh, for defendant company.

J. V. Teetzel, K.C., and G. C. Thompson, Hamilton, for defendant Hillman.

BRITTON, J., held, that the defendant Hillman before and at the time of making his final estimates had a bias against the plaintiff and had not acted impartially towards him. The plaintiff, therefore, was entitled to have his claim further investigated, and he was allowed a reference with respect to his claim, in so far as not otherwise disposed of, to ascertain what amount was due him from the defendant company. The plaintiff was further entitled to a mechanic's lien upon the property in question, but only for the amount found