

There was no evidence that could properly be submitted to the jury of any interference by Lowes with the work of the contractor. Nothing was done by him that would seem to shew liability on his part, in the circumstances of this case. It is stated that Lowes was on the premises day by day, but he was not on the premises within sight of the dangerous wall. The wall could not be seen by Lowes from his own home or in the ordinary course of coming and going. If the deceased was not in the place where he ought to have been under his arrangement with his employer Wallberg, that is a defence for Lowes as well as for Wallberg. There was no duty on the part of Lowes to the deceased in the place where the deceased was at the time the accident happened.

Action dismissed with costs, if demanded.

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WOLSELEY TOOL AND MOTOR CO. v. JACKSON POTTS & CO.—FALCONBRIDGE, C.J.K.B., IN CHAMBERS—MAY 26.

*Parties—Third Party Notice—Motion to Set aside.*]—Appeal by James D. Turbull and William W. Turnbull, third parties, from an order of the Master in Chambers dismissing the appellants' motion to set aside the third party notice and the service thereof. The learned Chief Justice said that, under Rule 25 (g) and the cases cited, the Master's order was properly made; and the appeal or motion to set the same aside should be dismissed. Costs to the defendants against the Turnbells in any event. It was not a case for requiring the undertaking imposed in *Re Jones v. Bissonette*, 3 O.L.R. 54. R. C. H. Cassels, for the appellants. H. S. White, for the defendants.

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STEELE v. WEIR—FALCONBRIDGE, C.J.K.B., IN CHAMBERS—MAY 26.

*Partition—Application for Order for Partition or Sale—Administration—Rules 612, 613—Caution—R.S.O. 1914 ch. 119, sec. 15 (d)—Executor—Costs.*]—Motion by the plaintiff for an order for partition or sale of lands. The learned Chief Justice said that in its essence the application was for administration, and Rules 612 and 613 declared that it should not be obligatory