

The judgment of the Court was delivered by MIDDLETON, J.:—The gangway constructed by Webb for the use of the bricklayers was admitted to be sufficient and safe. Richardson, for the purpose of allowing the carpenters (who were permitted to use the same gangway) to bring some large mullions into the building, placed an additional plank beside the gangway. This was done some time between 2 and 5 p.m. On the following morning the plaintiff, going to his work, went up the original gangway, and, when near the top, stepped upon this plank, which had been insecurely fastened, and fell with it into the cellar. In his judgment delivered after the trial, the learned Chief Justice found that Leitch, Webb's foreman, knew that the gangway had been widened, and that it was his duty to see that it had not been rendered unsafe.

A careful perusal of the evidence satisfies us that the finding that Leitch knew of the placing of the additional plank cannot be supported.

Webb had discharged his duty to his employees when he constructed the original safe and sufficient way. This never was altered. Richardson placed beside it an unsafe way for his own purposes, but in such a position as to invite use by any one going into the building. This may have imposed a duty upon Webb, upon his learning of its erection, to inspect it and ascertain its condition—as to this we say nothing—but, in the absence of any knowledge on the part of either Webb or his foreman, there is nothing upon which liability on Webb's part can be founded.

The appeal must be allowed—with costs if demanded. Sympathy will probably induce the defendant to waive costs if the litigation ends here.

ALLEN v. TURK—MASTER IN CHAMBERS—SEPT. 17.

Venue—Change—Fair Trial—Prejudice.]—Motion by the defendant to change the venue from Owen Sound to Toronto. The action was brought to recover \$3,700 which the plaintiff alleged he was induced to invest in shares of the Toronto Roller Bearing Co., by the fraudulent representations of the defendant, who was at the time of the alleged misrepresentations the Minister of the First Methodist Church at Owen Sound. Sales of shares in the company named were admittedly made by the defendant to persons in Owen Sound and throughout the county of Grey. In the statement of claim as delivered no place of trial was named, and an order was made allowing Owen Sound to be named, subject to the right of the defendant to move to change. The defendant now