

the ways, etc., were proper: R. S. O. 1897 ch. 160, sec. 6, cl. 1.

Here . . . it was the duty of the defendant Webb to see that the way which he provided for the use of his workmen was kept in a safe condition, and the act of the defendant Richardson's men having, as I have found, rendered it unsafe, it was Webb's duty to have guarded against the consequences of that act when he became aware, or ought to have become aware, of what they had done.

Kelly v. Davidson, 31 O. R. 521, 32 O. R. 8, 27 A. R. 657, may be referred to . . .

My finding is that the plaintiff was not guilty of contributory negligence, and that he is entitled to judgment against the defendant Webb for the damages assessed by the jury, with costs.

The unsafe condition in which the gangway was left was, I think, due to the negligence of the defendant Richardson's workmen, but I am unable to see how the plaintiff can recover against him. There was no joint negligence by him and Webb. His negligent act rendered the gangway unsafe, and it may be that Webb may have a right of action against him; as to that I express no opinion; but the negligence for which I have found Webb answerable is an entirely different negligence, viz., negligence in not seeing that the gangway was kept safe for use by his workmen.

The action will be dismissed as against the defendant Richardson without costs.

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MEREDITH, C.J.C.P., IN CHAMBERS.

APRIL 23RD, 1910.

RE CLARK, TORONTO GENERAL TRUSTS CORPORATION  
v. BANK OF MONTREAL.

*Administration—Reference—Dispensing with Payment of Money into Court — Distribution by Executors — Arrangement between Testator's Widow and Creditors—Sanction by Court—Administration Order—Exercise of Power to Grant—Order made by Local Master with a Reference to himself.*

Motion to confirm the report of the Local Master at Goderich, dated the 13th April, 1910, made under the reference directed by an administration order made by him on the 17th June, 1907.

W. Proudfoot, K.C., for all parties.