

position for being driven. In the hoisting the collar came off, for want of the necessary holding-key, or safety-pin. The pile fell, and in falling possibly struck the deceased, causing him to fall on the ice, whereby he fractured his skull and died immediately. If the pile did not in fact strike the deceased, he fell as the direct consequence of the collapse of the derrick and in an attempt to get out of the way. BRITTON, J., who tried the action without a jury, said that, in either case, the death was attributable to the defective condition of the derrick. The deceased was put in jeopardy by the negligence of the defendants. He did what was considered best by him at a time when he had instantly to act, and in so doing fell and was killed. There was no evidence of any contributory negligence on his part. The death was due to the negligence of Hancock in not seeing that the derrick was finished and safe before attempting to use it. The defendants were negligent in not seeing that the derrick was complete and in good and safe working order before putting it in charge of Hancock to be used. Then Hancock was a person in the service of the defendants to whose orders the deceased, at the time of the injury, was bound to conform and did conform, and the injury resulted from his having so conformed. The defendants were, therefore, liable to the plaintiff. Damages assessed at \$3,000, apportioned among the plaintiff and her four children, with costs. F. R. Morris, for the plaintiff. F. H. Keefer, K.C., for the defendants.

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JOHNSTON V. OCCIDENTAL SYNDICATE LIMITED—MASTER IN CHAMBERS—DEC. 21.

*Security for Costs—Motion for—Refusal of Previous Motion.*—Judgment for the plaintiff (after trial without a jury) was given in this action on the 27th September, 1911: 3 O.W.N. 60. It afterwards appeared that on the 28th February, 1911, the judgment of the Yukon Court (sued on) had been assigned by the plaintiff to F. J. McDougall. The defendants thereupon moved before FALCONBRIDGE, C.J.K.B., for directions and for security for costs. The only order made was, that the action be forthwith revived at the instance of either party. The Chief Justice's written memorandum was: "Motion for directions—practically for security for costs. The only direction which I deem it necessary or proper to give is, that an order of revivor shall issue." The defendants, having given notice of