

The Frasers arranged with that company to have their plans and specifications copied, and for the purpose of obtaining the copies and to obtain tenders and superintend the construction, they employed a Mr. Proper, who, though not a professional architect, had had very extensive experience in mill construction work. Some variations were made by Mr. Proper in these plans. . . .

The plans for the roof were prepared by the Dominion Bridge Company, who under contract constructed and put on the roof.

The brickwork was done under contract by defendant Garrock, who commenced his work early in March, 1903, and . . . a portion of his work was done during frosty weather.

The building was completed with the exception of putting in some interior machinery, in which the deceased was engaged under his employer Campbell on 6th August, 1903, when suddenly the end wall of the boiler house gave way and fell into the building, inflicting injuries to deceased which caused his death the next day.

According to the evidence, a very severe gale of wind was blowing when the wall fell in . . . and defendants contended that it was the suddenness and violence of the storm that caused the accident, and that they could not, by the exercise of the utmost care, foresee and provide against the irresistible force of the storm. . . .

The end of the power house was near the edge of a lake, and faced a stretch of 2 or 3 miles of open water, and I think, while defendants could not be expected to provide against storms of the violence of a cyclone or tornado, that it was reasonable to expect from the location and position of the boiler house that it would be subjected to more than ordinary wind strain at times. . . .

I do not think the storm was greater or more violent than a properly constructed wall should have withstood.

There was great conflict of evidence between the experts called by plaintiffs and those called by defendants. . . .

I am of opinion that it was not unreasonable for defendants to adopt the plans and specifications which had been used in the construction of the building at Whitney, and also it was not unreasonable for them to employ Mr. Proper, although not an architect, to take charge of the construction; but I am also of opinion that in fact the wall was not sufficient to withstand the wind pressure that might reasonably be expected in that locality. . . .

Notwithstanding my conclusions of fact, I am unable to find that defendants were guilty of such negligence as to render them liable to plaintiffs.