against loss by liability for such injuries. See Jones v. Morton Co. Limited, 14 O. L. R. 402. The second trial took place before LATCHFORD, J., without a jury.

H. H. Dewart, K.C., and D. Urquhart, for plaintiffs.

I. F. Hellmuth, K.C., and R. H. Greer, for defendants.

LATCHFORD, J.:—The facts giving rise to the action are fully set forth in my brother MacMahon's judgment, and in Jones v. Morton Co. Limited, 14 O. L. R. 402, the evidence in which, so far as applicable, was by consent made part of the case before me. It was supplemented by the oral evidence of the witness Issard, who was called to establish not only that the accident to the boy Jones was caused by the negligence of the Morton Co., but that the boy was injured while conforming, as he was obliged to conform, to the orders of Issard. It would follow as a result of the evidence on the latter point that there was a breach by the Morton Co. of the provisions of the Workmen's Compensation for Injuries Act. Objection was made to the admission of this evidence, on the ground that the plaintiffs sought thereby to base their right to be indemnified by the defendants upon a new liability. The evidence on this point must, I think, be rejected. The money which the plaintiffs now seek to recover was paid under a judgment in which they were held liable only because of their breach of the Factories Act. Were it open to me to find, as upon such evidence I should find, that the plaintiffs were also liable because of their breach of the Workmen's Compensation for Injuries Act, the fact would remain that it was not upon the latter ground that the plaintiffs were held liable for the moneys they now seek to be reimbursed. It is not, in my opinion, open to me to consider evidence upon which they might have been—but were not—held otherwise liable. Issard's evidence, however, I regard as admissible to the extent that it enables me to find, as I do find, that there was negligence under the Ontario Factories Act occasioning the injury to the boy Jones, and entitling him to recover the damages from the Morton Co. determined by the Court of Appeal. Such negligence consisted in causing the boy to use an elevator which the company then defending knew to be out of repair. The employment of a boy under fourteen years of age, as Jones was, is evidence of negligence: Fahey v. Jephcott, 2 O. L. R. 449; and the Morton Co. were in fact negligent in employing the boy contrary to the prohibition of the statute. I find that the Morton Co. had, prior to the accident, no knowledge that the boy Jones was under the age of fourteen. The condition in the policy issued by the defendants to the plaintiffs upon which