Church v. *Appleby*, 60 L.T. N.S. 542; *Yarmouth* v. *France*, 19 Q.B.D. 647; *Smith* v. *Baker*, [1891] A.C. 325; *Williams* v. *Birmingham Battery Co.*, [1899] 2 Q.B. 338; *Grand Trunk Pacific R. Co.* v. *Brulott*, 46 Can. S.C.R. 629, 13 Can. Ry. Cas. 95, referred to.

When a workman in the course of his employment is placed in a position of peril by the negligence of his master in the construction of the works and ways of the master, and an accident happens to the workman in the way that might be expected from the negligence found, a jury can infer that the negligence caused the accident.

McKeand v. *C.P.R.*, 1 O.W.N. 1059, 2 O.W.N. 812, referred to.

E. G. Porter, K.C., for plaintiff. *G. H. Watson*, K.C., and *L. M. Hayes, K.C.*, for the defendants.

Mulock, C.J.Ex., Clute, Riddell, Sutherland, and Leitch, JJ.] [March 18.

MILLER *v.* HAND (No. 2.).

(10 D.L.R. 186.)

Brokers—Real estate agent's purchase in own name—Liability to account for profits.

An agent selling land cannot make a profit for himself at the expense of his principal; and so if the agent fraudulently purchases the land himself, and afterwards makes a profit on the re-sale he is accountable to his principal for the amount of his profit less the commission on such profit.

Miller v. *Hand* (No. 1), 8 D.L.R. 465, affirmed on appeal.

Watson, K.C., for defendant. *Kilmer*, K.C., for plaintiff.

Mulock, C.J.Ex., Clute, Riddell, Sutherland, and Leitch, JJ.] [March 19.

GRAHAM CO. *v.* CANADA BROKERAGE CO.

(10 D.L.R. 107.)

Sale—Tender of second sample—Refusal to inspect.

The buyer is not entitled to withdraw from his contract on the ground that one box of merchandise (*ex gr.*, evaporated apples),