

suffered, was not negligence of a fellow servant, but of this defendant himself; but the plaintiff was in no sense his servant, but the servant of Fisher.

The doubts I expressed in charging the jury, as to the want of a ladder being the cause of the injury, have not been entirely removed from my mind, but in the face of charge emphatically favourable to the defendants, upon this point, they have come to the conclusion that it was the cause of the accident and I cannot say that there was not any evidence to support their finding.

Even with this question settled I have had a good deal of difficulty in coming to the conclusion that the defendant Abraham is liable, that is, that he owed any duty to the plaintiff. Outside of the statute he certainly did not. The main contest in the case was as to whether this defendant acted solely in the capacity of an architect, as he contended, or as a contractor, upon an accepted tender, doing the work and supplying the material for a specified sum. It ultimately turned upon whether McWilliams, the building owner, accepted Abraham's tender. The jury found that he did, and in this finding I entirely concur. This defendant then occupied the unique position of being at once contractor and architect—the builder and supervisor and judge. The sharp contrast between his evidence as first given, and his evidence in reply, when unexpectedly confronted by McWilliams, was not creditable to him, or calculated to win the sympathy or confidence of the jury. The plaintiff has to recover under sec. 4 of R. S. O. ch. 146, the Workmen's Compensation for Injuries Act, if at all. I think he can. It might be argued, perhaps, that this section is confined to the case only of the owner of the property who supplies "ways, works, etc.," but I think it is not necessarily so confined. A statute of this character is to receive a liberal interpretation. This defendant it was who contracted with Fisher, the plaintiff's employer. He was in sole charge and possession and as contractor and architect, was in exclusive control until the work was completed and passed. "The execution of the work was being carried out under a contract." He was the person owning and supplying the "ways, works, machinery, plant, etc., for the purpose of executing the work." The plaintiff was "a workman" of Fisher, "a contractor or sub-contractor" and "the defect," as found by the jury, "arose from the negligence of the person for whom the work is done."