

The matters involved are of vital importance to the parties and this order will be made in Court or Chambers as may seem proper—my desire being that if the applicants are advised to appeal, that appeal should be facilitated.

HON. MR. JUSTICE MIDDLETON.      NOVEMBER 19TH, 1913.

SCHOFIELD v. BLOME.

JOHNSTON v. BLOME.

5 O. W. N. 328.

*Negligence—Injury to Workman—Fall from Hoist—Negligence of Foreman—Workmen's Compensation Act—Building Trades Protection Act, 1 Geo. V., c. 71, s. 6—Reasonable Safety from Accident—Evidence—Damages.*

Actions for damages for personal injuries sustained by plaintiffs, employees of defendants, by reason of the fall of a hoist being used temporarily by them while bricking up openings in a wall of a building, the said accident occurring through the alleged negligence of defendants. The hoist was operated by a cable and drum driven by a stationary engine which also operated a fixed drum for other purposes.

MIDDLETON, J., *held*, that the defendants were liable under the Workmen's Compensation Act in that plaintiffs were working as they were in obedience to the orders of their foreman, who was negligent in not forbidding the hoisting engine to be used for any other purposes while the plaintiffs were upon the hoist.

That they were also liable under the Building Trades Protection Act, 1 Geo. V., c. 71, s. 6, in that the hoist in question was not being operated so as to afford reasonable safety to those using it.

Judgment for plaintiffs for \$3,500 and \$2,500, respectively; if liability under Workmen's Compensation Act only, then for \$2,700 and \$1,500, respectively.

Actions for damages for personal injuries sustained by plaintiffs while in the employ of defendants through their alleged negligence, tried at Hamilton on the 1st and 6th November, 1913, without a jury.

T. Hobson, K.C., and A. M. Lewis, for the plaintiffs respectively.

E. F. B. Johnston, K.C., for the defendant, R. S. Blome Company.

HON. MR. JUSTICE MIDDLETON:—The defendants were contractors for the erection of a large factory in Hamilton. The building was of brick and concrete, and to facilitate its erection a hoist was erected outside the main wall for the