

this place as being too restricted, and, therefore, an improper place to work in, the plaintiff's claim cannot be supported on that ground; for there is no evidence that this place was an improper one in the sense that it could have been made more spacious, or that there is any known method of operating locomotives; in respect of the place where these men necessarily work, superior to or safer than that in use in this locomotive.

Much as one regrets the unfortunate occurrence, which has been attended with such serious results to the plaintiff, there is but one conclusion to be come to, namely, that the negligence found by the jury is not negligence of the defendants, or such as to entitle the plaintiff to succeed.

The action will, therefore, be dismissed with costs.

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HON. MR. JUSTICE BRITTON.

JUNE 15TH, 1914.

CLARKSON v. FIDELITY MINES CO.

6 O. W. N. 604.

*Contract—Breach—Repudiation—Recovery of Moneys Paid without Consideration—General Damages—Evidence—Lis Pendens.*

A. upon the implied request of company B. paid a sum of money to company C. As a result of the breach of an agreement between the said A. and company B. the former did not receive any consideration for the said payment.

BRITTON, J., gave judgment against both companies since company C. had received the benefit of the payments and since company B.'s breach of its agreement was the cause of the failure of consideration.

Action brought for breach of an agreement made between the plaintiff and the Fidelity Mines Co.

Tried at Toronto without a jury.

K. F. Henderson, for plaintiff.

R. H. Greer, for defendants.

HON. MR. JUSTICE BRITTON:—In the agreement that company is styled the Fidelity Mines Co. of Buffalo, but the words "of Buffalo" are no part of its corporate name.

The Ontario Fidelity Mines Co., Ltd., has been made a defendant.