

Armour, C.J.O.]

[April 12.]

MYERS v. SAULT STE. MARIE PULP CO.

*Negligence—Fellow servant—Evidence—Duty to guard machinery.*

A workman employed by the defendant company in order to do his work had to climb a step ladder and step over the unguarded rim of a cogwheel to a plank on which he did his work. In coming from his work a truckman removed the ladder as he was stepping on it, and in recovering himself his leg went through the spokes of the wheel and he was injured. At the trial the jury in answer to questions found: that the injury to the plaintiff was caused by the negligence of the defendant company and not by his own negligence or want of proper care; that it was only to a certain extent caused by the negligence of a fellow-servant, for if the wheel had been properly guarded and the ladder properly fastened to the floor the accident would not have happened; that the negligence of the defendant company consisted in not guarding the wheel and fastening the ladder; that the wheel was a dangerous part of the mill gearing and was not as far as practicable securely guarded; that he would not have received the injury if it had been so securely guarded.

*Held*, 1. The findings of the jury as to negligence were amply supported by the evidence and could not be interfered with.

2. The defendant company were bound by the common law to take all reasonable precautions for the safety of their workmen, and it was for the jury to say what were such reasonable precautions.

3. The defendant company was also bound by the Factories Act to securely guard as far as practicable all dangerous parts of their machinery.

4. The jury having so found and their finding being supported by the evidence the intervention of the truckman in wrongfully taking away the ladder did not relieve the defendant company from the consequences of their negligence for their negligence still remained an operative cause of the workman's injury.

*Mann v. Ward* (1892), 8 Times L.R. 699, not regarded as an authority.

Judgment of FALCONBRIDGE, C.J.K.B., affirmed, but as the damages were considered excessive a new trial granted unless the plaintiffs consent to reduce the amount of damages.

*Riddell*, K.C., and *Irvine*, for the appeal. *Douglas*, K.C., contra.

Robertson, J.]

IN RE GLENN, REX v. MEEHAN.

[April 12.]

*Criminal law—Municipal elections—Illegal voting—Indictable offence—Information—Police magistrate—Mandamus.*

Voting in more than one ward at a municipal election by general vote, contrary to the provisions of 1 Edw. VII., c. 26, s. 9 (O.), is an indictable offence, and mandamus lies to a police magistrate having territorial