## LEGAL

SCANLAN VS. DETROIT BRIDGE AND IRON WORKS.—In this case argued and decided recently in the Superior Court at Montreal, Mr. Justice Archibald, presiding, the Judgment was as follows:—The plaintiff sues the defendant, alleging that he was a bridge builder, employed in the defendant's service in the building of the new Victoria bridge across the St. Lawrence, from Montreal to St. Lambert, at the salary of $2.50 per day; that on the 2nd of October, 1898, plaintiff with other workmen was employed in removing the iron floor of the old Victoria tubular bridge, under the orders of their foreman, and it was his duty to fasten the hooks upon the cross-beams of the portions of the floor which were to be removed, which were then by means of a derrick lifted and carried over and piled on one side of the new bridge. These pieces of flooring of the tubular bridge were six or seven feet wide by the width of the bridge, and had two cross-beams, which existed in old bridge bolted to the plate iron, which formed part of the tube. The chain, which came down from the derrick, was provided at its lower extremity with two short chains, having at each end, hooks, or rather clamps. These hooks, or clamps, were then attached by the workmen by placing them under the flange, which existed upon the cross beams, whereupon, when the power was put on these clamps, would tighten upon the cross beams and so raise the whole piece of iron to be removed. However, as the derrick had to work among the braces of the new bridge, the boom of the derrick could not swing over so as to carry the iron sideways. For this purpose it was necessary to have a second derrick provided with a chain, which was also hooked into the ring of the other chain, which was attached to the chain of the other derrick. When the iron had been raised some feet by the first derrick the strain was gradually transferred to the chain of the other derrick and just as that chain took the strain, the chain of the first derrick slacked, thus enabling the iron to be carried sideways, so as to come perpendicularly under the boom of the second derrick, and be there deposited upon the pile free from the tracks of the railway.

It seems that the workmen found it difficult to prevent the hook of the chain of the second derrick from slipping out of the ring, while it was being hoisted by the first derrick, and so the men were in the habit of riding upon the iron so as to be in a position to keep the hook of the second derrick in its place. They would then ride over until the iron was deposited on the pile. When this operation was being accomplished on the day in question the plaintiff was standing between the two cross-beams holding on to the chain of the derrick. As the strain was put upon the chain of the derrick one side of the iron lifted before the other, and just as the iron was about to be completely suspended one of the bolts which bolted one of the cross-beams to the plate iron gave way and these cross-beams naturally fell together and injured the plaintiff, who was standing between them.

The defendant says that frequent warnings were given to the men not to stand between the cross-beams, and that the plantiff disregarded these warnings, and that if he suffered it was his own fault. It appears however, that it was necessary for the men to be on the piece of iron, which was being moved, at least after it was completely suspended on the derrick chain, in order to attach the chain of the second derrick. It is manifest that the danger of accident would be just as great whether the men were standing between the cross-beams or not, because the chairs and pulleys with which that work was performed would if they gave way, in all probability kill or seriously injure any men who were working with them.

It is not the duty of an employer to guarantee the lives and limbs of the men acting under his orders, but it is the duty of an employer to use means as safe as are praticable in the performance of his work. If there was any danger in standing between the cross-beams when the iron was being hoisted that danger ought to have been known to the employer, and presumably was known to him, seeing he alleges that he had warned the employees against standing between the beams.

It is manifest that other means might easily have been employed to prevent any danger arising from the giving way of materials in connection with the removal of that iron. An employer has no right to use means which offer a constant danger to his emlyoyees when other means, perhaps a little more expensive and a little slower in operation, would have avoided the danger, nor can he excuse himself by alleging that he had warned the employee of the nature of the danger which he was running.

The accident of which the plaintiff complained was caused by what I must hold to be the negligence of the defendant, and it follows that judgment must go in plaintiff's favor.

I assess plaintiff's damages at the sum of $750, for which I give judgment with costs.

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