

of keeping back the people on one side of the river, was a mere volunteer and could not recover for injuries sustained by him owing to the negligence of the engineer. The cases cited in support of that contention—*Degg v. Midland R.W. Co.* (1857), 1 H. & N. 773, and *Potter v. Faulkner* (1861), 1 B. & S. 800—had no application.

Reference to *Hayward v. Drury Lane Theatre Limited*, [1917] 2 K.B. 899, 906.

There was no contractual relation between the appellant and the respondents, and the appellant as a member of the Board had a common interest with the respondent in the work that was being done, and what he did in undertaking to keep the people back was done by the invitation and with the acquiescence of the engineer acting within the scope of his employment.

The appellant was not a volunteer or a trespasser in any sense. The work was being done under the direction of the Board of which he was a member, and he had a right to take such part as he might think necessary in the doing of the work; but there was no ground for thinking that he took any part in it beyond undertaking to keep the people back on one side of the river.

The appeal should be allowed with costs, and judgment should be entered for the appellant for the amount at which the damages were contingently assessed, with costs.

Appeal allowed.

FIRST DIVISIONAL COURT.

JULY 15TH, 1918.

*BAILEY COBALT MINES LIMITED v. BENSON.

Security for Costs—Company out of the Jurisdiction Brought into Winding-up Proceedings in Ontario—Company Desiring to Appeal from Interim Report—Security for Costs of Appeal—Inherent Power to Order—Amount of Security—Practice—Order Styled in Effete Action—Amendment of Style of Cause so as to Bring it under Winding-up Proceeding—Jurisdiction to Order Security Limited to Referee under Winding-up Order—Order Made by Master in Chambers without Jurisdiction—Affirmance by Judge in Chambers—Order of Judge Treated as Substantive Order—Appeal to Appellate Division—Costs.

Appeal by the defendants the Profit Sharing Construction Company from an order of FALCONBRIDGE, C.J.K.B., in Chambers,