

application was made before the Hon. Mr. Justice Harvey for his release on a writ of habeas corpus, which was refused.

A report of the evidence and proceedings was sent to the Department at Justice, at Ottawa, and a warrant returned authorizing the delivery of said William H. Latimer to an officer appointed by the State of Pennsylvania to receive him and convey him from Canada. Notice of this was sent to the representative of the State of Pennsylvania who declined to send for him, upon which an application was made under s. 19, of the Extradition Act for his release. Notice of this application was given to the Minister of Justice for Canada, and the representative of the State of Pennsylvania, but no action was taken by the latter except apparently a reiteration of their intention not to take any further part in the matter, and such intention is expressed by their counsel now present.

Although it is apparent that the provisions of the Extradition Act have been utilized with some ulterior motive by the representatives of the State of Pennsylvania, and their anxiety for the prosecution of alleged criminals has very materially cooled since the orders for extradition were made, these are matters into which I have no authority to enquire, and the time having expired for which the accused can be lawfully held in custody without action and no objection being raised by any one to his release, I have no option but to order his discharge from custody.

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JUDICIAL DISTRICT OF WESTERN ASSINIBOIA.

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SUPREME COURT.

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Newlands, J.] *SHORT v. CANADIAN PACIFIC RY. Co.* [April 5.

*Negligence—Contributory—Volenti non fit injuria.*

The plaintiff was in the employ of the defendant company, working on a pile driver. The hammer slipped from its fastening and crushed his arm. He claimed that the pile driver was defective to the knowledge of the defendant's officials, but that the existence of the defect was unknown to him. The defendants denied this and claimed contributory negligence on the part of the plaintiff. The trial judge found that the pile driver was defective, but that the plaintiff could have avoided the injury by waiting until the hammer was chocked before going under it to fix the pile driver in its place; that no one was supposed to be