

a cold chisel, the plaintiff was injured by a piece of the steel so chipped off, striking him in the eye and destroying its sight.

*Held*, on appeal, affirming the decision of MORRISON, J., that the injury was an accident within the meaning of the Workmen's Compensation Act, 1902.

W. S. Deacon, for the appellants (respondents in the court below). McCrasson and Harper, for respondent (appellant below).

Full Court.]

MARKS v. MARKS.

[July 18.

*Will, construction of—Description of legatee—"To my wife"—Bigamous marriage, presumption of—Evidence taken on commission—Discretion of trial judge to dispense, with reading in full, or to accept a statement of its effect.*

In December, 1873, the plaintiff, Annie J. Marks, then aged 21, was returning from a visit to Detroit. Whilst waiting at the Windsor depot she made the acquaintance of the deceased, A. J. Marks, then a widower. After an acquaintance of an hour or so, she decided to go with him by train to Stratford, during which time the couple became engaged. She did not return to her home in Kincardine, but waited for a few weeks when she received and accepted a request from him to meet her at Brantford. They then went to Buffalo, where she contends they were married. After a short absence they returned to Kincardine, where they kept house as man and wife until the spring of 1876, when he sold the furniture, kept the proceeds and left her, but returned in the fall of 1877. During his absence he did not provide for her support. He lived with her until the spring of 1878, when he left for Winnipeg. They apparently parted on friendly terms; she did not request to be taken with him; they did not correspond with each other; she made no demand for support from him and he gave her none. In 1895 he returned to Kincardine, but did not visit her, although he visited her mother and sister, and made enquiries concerning her. He died in October, 1904, but commencing in January of that year he opened a correspondence with her. These letters were produced at the trial by her. In all of these communications he addressed her as "Dear Friend" and she replied in the same way. In 1888, she lived with a man named Frankboner in Michigan, assumed his name and went as his wife.