The law is well settled that "an employer cannot divest himself of liability in an action for negligence by reason of having employed an independent contractor, where the work contracted to be done is necessarily dangerous, or is, from its nature, likely to cause danger to others, unless precautions are taken to prevent such danger:" Halsbury's Laws of England, vol. 21, sec. 797, and cases there cited: See particularly *Halliday* v. *National Telephone Co.*, [1899] 2 Q. B. 392.

It is clear upon the evidence that it was in the contemplation of the parties that Dumond would use the cement mixer in the way in which it was used. He had been doing cement work for the respondent for several years, and during the last four years before the accident he had invariably used a cement mixer.

James Martin, the reeve, and Henry Lawrence, a member of the respondent's council, were appointed by the council to construct the sidewalk, and they made the contract with Dumond; both of them knew that the mixer would be used, and Lawrence, whose place of business was near the work, saw it in use and knew that it was an object calculated to frighten horses.

This brings the case clearly within the rule of law I have mentioned, and the respondent is answerable for the negligence which it has been found caused the injury to the appellant's horse, and it follows that the appeal should be allowed and the judgment dismissing the action as against the respondent should be reversed and judgment entered for the appellant against the respondent for $200 (the amount of the damages as found by the Judge) with costs, and the respondent should pay the costs of the appeal.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE LENNOX, agreed.