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COURT OF APPEAL.

JUNE 6TH, 1911.

BRULOTT v. GRAND TRUNK PACIFIC R.W. CO.

Railway—Repair Shops—Injury to Helper in—Neglect to Put Out Flag—Direction of Superior—Questions Submitted to Jury—Findings of Jury—Contributory Negligence—Proximate Cause—Workmen's Compensation for Injuries Act, sec. 3, sub-secs. 2, 3.

Appeal by the defendants from the judgment of FALCONBRIDGE, C.J.K.B., of the 11th October, 1910, at the trial with a jury in an action for damages for injuries sustained by the plaintiff while in the defendants' employment.

The appeal was heard by MOSS, C.J.O., MACLAREN, MEREDITH, and MAGEE, J.J.A.

D. L. McCarthy, K.C., for the defendants.
T. N. Phelan, for the plaintiff.

MAGEE, J.A.:—The plaintiff, a young man of 23 years, was a helper in the defendant company's repair shops at Fort William. One Teasdale, a machinist also employed in the shops, was making some repairs on a wrecking car on a siding near to the shops. In the course of his work at one stage of it he needed some one to assist him, and the plaintiff was selected. He had instructions from the shop foreman to do whatever Teasdale told him to do, and went with Teasdale. He says Teasdale was for the occasion his "boss" and he was obliged to obey his orders. It was necessary to repair the grate-bars of a boiler on the west end of the wrecking car, and Teasdale had placed a trestle or horse between the rails of the siding close to that end of the car. The plaintiff was told by Teasdale to stand on this trestle and with a piece of board hold up some bolts in the grate-