

might fairly be inferred that there was reasonable probability that the accident resulted from the absence of a fence at the place where the boy entered—and a nonsuit was upheld on the ground that no negligence was attributable to the defendant company which was the proximate cause of the accident. *Williams v. The Great Western R.W. Co.* (1874) L.R. 9 Exch. 157, followed. *Daniel v. The Metropolitan R.W. Co.* (1868) L.R. 3 C.P. 216; affirmed (1871) L.R. 5 H.L. 45, followed.

*R. S. Robertson*, for plaintiff. *MacMurphy*, for defendant company.

Meredith, C.J.C.P., Teetzel, J., Anglin, J.] [June 12.

STURGEON *v.* PORT BURWELL FISH CO., LIMITED.

*Steamboat Inspection Act—Fishing tug—Dominion rules and regulations—Life saving apparatus.*

The Steamboat Inspection Act, 1898, 61 Vict. c. 46 (D.), s. 3, enacts: "No steamboat used exclusively for fishing purposes and under 150 tons gross tonnage . . . shall be subject to the requirements of this Act . . . except as to the obligation to carry one life-buoy . . . and to carry a life-preserver for each person on board. Section 11 of Part VIII. of the Dominion Rules and Regulations respecting the inspection of boats, etc., purporting to have been passed under the said Act, under which the Governor-in-Council may make regulations, inter alia, respecting boats and life-preservers, fire-buckets, axes and lanterns and other life-saving appliances to be carried by steamboats or other vessels mentioned in the Act—provides that "every steamboat not employed in the carriage of passengers . . . shall at all times when the crew thereon is on board, be provided with and have on board . . . a good, suitable and sufficient boat or boats in good condition," and another regulation provides, "Every steamboat not employed in the carriage of passengers . . . shall . . . have on board . . . a number in due proportion to that of the crew of . . . fire-buckets . . . and of axes and lanterns, to the satisfaction of the inspector."

*Held*, that the above Act did not apply to a fishing tug of the defendants' company of some 12½ tons, and that if the intention of the Governor-in-Council was to carry the provisions beyond the terms of the Statute, there was no authority so to do; but that it was preferable to read them as not intended to be applied to steamboats excepted from the operation of s. 3 of the