

assessing damages if the judgment should be for the plaintiff. Upon an appeal from judgment for plaintiff, in pursuance of this agreement, it was held that the court below was not exercising its usual judicial functions in determining the case, but acted as *quasi* arbitrators, and its decision could not be reviewed on appeal.

This decision may be strictly right, but it must strike the ordinary practitioner as being a hardship upon the railway company. If a special case had been stated in the very terms of the agreement, there would have been an appeal. If the agreement had not given the court power to assess damages, it would not have been easy to contend that an appeal would not lie; and, if that is so, the insertion of that authority should not have been held to affect the whole transaction. The authorities relied on by the Chief Justice show that the mode in which the damages were assessed was the main ground of the decision.

Mr. Justice Patterson's dissenting judgment on the merits of this case covers nearly fifteen pages of the reports, and we would again take exception to the practice of publishing lengthy judgments which do not bear on the decision of the court. In some instances, where a case has gone off on some technical point, an individual opinion on the merits may be of use, in view of a similar question arising in future; but here the majority of the court had announced that if the case had been properly before them, their decision would have been opposed to the view of the dissentients.

NEGLIGENCE—HAZARDOUS WORK.

Brown v. Leclerc, 22 S.C.R. 53, seems to carry the doctrine of liability for negligence in carrying on hazardous works pretty far; but as the Supreme Court was the third tribunal which passed upon the matters in issue, all holding the same opinion, the decision must be admitted to be a well-considered one.

The case may be briefly stated thus: Two stevedores were engaged in loading a vessel, one with flour, the other with cattle. There was no community of service between them or their respective employees. It being necessary to fasten the cattle in compartments near the hatchway, through which the flour was being lowered, the stevedore engaged with the latter was asked to suspend operations for ten or fifteen minutes, but refused. One