

The appeal to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. MR. JUSTICE CLUTE, HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

J. M. Godfrey, for plaintiff, appellant.

G. C. Campbell, for defendant, respondent.

HON. MR. JUSTICE LEITCH:—Assuming that William Meade had the superintendence of the stable intrusted to him, the injury to the plaintiff was not caused by any negligence on his part whilst in the exercise of such superintendence.

The next question is, was the injury caused to the plaintiff by his conforming to any order or direction to which he was bound to conform and did conform. He was directed to put down the bedding for the horses. His injury was not due to this order or to any thing he did in carrying it out. It was urged on behalf of the plaintiff that William Meade caused the injury by untying the horse and backing him or permitting him to back out of the stall in order to water him. This was not negligence. It was also stated that there was evidence that he turned the horse loose in the stall to enable him to go to water. Even suppose that he did I do not think that that mode of managing a quiet horse or a number of quiet horses is negligence. It is a common every day practice of people having the care and management of horses. I do not see that there was any evidence of negligence to submit to the jury, and the appeal should be dismissed. The defendant did not ask for costs.

HON. MR. JUSTICE CLUTE and HON. MR. JUSTICE SUTHERLAND agreed, and HON. MR. JUSTICE RIDDELL agreed in the result.