

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Que.] ROYAL PAPER MILLS CO. v. CAMERON. [Nov. 5, 1907.

Negligence—Master and servant—Dangerous machinery—Want of proper protection—Voluntary exposure—Findings of jury—Charge of judge.

An experienced master mechanic, who was familiar with the machinery in his charge, and had instructions to take the necessary precautions for the protection of dangerous places, in attempting to perform some necessary work, lost his balance and fell upon an unprotected gearing which crushed him to death. In an action for damages, questions were submitted to the jury without objection by the parties, and no objection was raised to the judge's charge at the trial. The jury were not asked to specify the particular negligence which caused the injury, and, by their answers found that deceased was acting under the instruction and guidance of the company's officers who were his superiors, at the time of the accident; that he had control of the work to be done but had not full charge, control and management of the machinery generally; that there was fault on the part of the company, and that he had not unnecessarily or negligently assumed any risk.

Held, affirming the judgment appealed from, Davies, J., dissenting, that as there was no evidence from which the jury could reasonably draw inferences and come to these conclusions as to the facts, and, in the absence of objection to the questions put to them and to the charge of the judge at the trial, the findings of the jury ought not to be interfered with on appeal. Appeal dismissed with costs.

J. E. Martin, K.C., and *Fraser*, K.C. (*Howard* with them), for appellants. *Lasfleur*, K.C., and *Cate*, K.C., for respondent.