

company, the manufacturers and vendors, in repairing the boilers, etc.

The appeals were heard by FALCONBRIDGE, C.J.K.B., MAGEE, J.A., LATCHFORD and KELLY, JJ.

G. Lynch-Staunton, K.C., and F. F. Treleaven, for the brewery company.

Sir George Gibbons, K.C., and G. S. Gibbons, for the Leonard company.

LATCHFORD, J., delivering judgment, said that the Leonard company warranted that "only the best workmanship and material" should be used in the construction of the boilers which they contracted to make and did make for the brewery company. The claim for damages for breach of warranty was based upon the single ground that the leaks and cracks resulted from bad workmanship—the lap of one plate over the other was said to be too great, and the caulking too heavy. The onus was upon the brewery company to establish the excess in these respects, and that the excess in one respect or the other caused the leaks and cracks which rendered the boiler unfit for use.

It was argued by the brewery company that, if workmanship (as found by the trial Judge) not so good as it might have been might have caused the defects, then, in the absence of proof that they resulted from some other cause, the defects must be attributed to the possible cause, and the plaintiffs were entitled to recover damages.

Reference to *Badcock v. Freeman* (1894), 21 A.R. 633; *Dominion Cartridge Co. v. McArthur* (1901), 31 S.C.R. 392; *McArthur v. Dominion Cartridge Co.*, [1905] A.C. 72; *Shawinigan Carbide Co. v. Doucet* (1909), 42 S.C.R. 281, 311.

There was lacking in the case at bar evidence of any connection between the faults found with the workmanship and the defects which developed in the boiler. The bare possibility referred to by the trial Judge was not sufficient in the absence of the exclusion of all other reasonably possible causes. No reasonably probable cause for the defects having been proved, the action of the brewery company was properly dismissed.

The Leonard company failed to establish their claim to be paid for the repairs made in 1914. They were not to receive payment unless the defects were due to excessive firing, and excessive firing was held not to have been proved.

Both appeals should be dismissed without costs.