

Legal Decisions

QUEBEC WORKMEN'S COMPENSATION LAW: IMPORTANT DECISION.

Mr. Justice Lafontaine gave at Montreal on Tuesday an important decision under the Quebec Workmen's Compensation Act, in the case of Dame Ida Vincent vs. the Grand Trunk Railway, involving a claim of \$1,000.00. He held that a workman, engaged in the Province of Quebec, and falling under the provisions of the Quebec Workman's Compensation Act at the time of and by the fact of his engagement as a workman, is still governed by this Act, though he may meet with death whilst in the fulfillment of his duties outside of the province. His Lordship took the position that the application of the Act became a part and parcel of his engagement as a workman and that, in event of accident or fatality, it was the law of the place of the contract, and not the law of the place of the accident, which must apply. In the specific case at issue, if the law of the place of the accident were held to apply, the victim's heirs could not claim a cent. Under the provisions of the Quebec Act, however, it is contended that they have a right to a full indemnity.

Plaintiff's husband was a brakeman, and was killed at Lancaster, Ont. Under the Ontario Compensation Act no recourse could be had against the employer, as, before such recourse could be maintained, it would be necessary to prove that the company was at fault. Under the Quebec Act the proof of fault on the part of the employer is not necessary, it having been repeatedly held in the local courts that a fatality or accident arising in the course of a workman's daily work, rendered the employer liable, provided absolutely gross negligence on the part of the workman is not shown. Under the circumstances, the defendant in the present case sought to have the law of the place of the accident apply. In this contention it based itself on the common law. Mr. Justice Lafontaine, however, took a different view, maintaining that in the case of the engagement of a workman who, by reason of his wage and avocation, fell under the operation of the Workman's Compensation Act, such Act became part and parcel of the actual engagement. Thus, when a workman entered into a contract of labor in Quebec, he knew that by the very fact, if an accident happened to him whilst in the performance of his duties as a workman, the employer was liable. On the other hand, the obligation assumed by the employer by the engagement of the workman was a contractual one. Under the circumstances, a workman engaged as in the case at issue, and injured as was the victim in the particular case under consideration, was to be considered as being governed by the Quebec Workman's Compensation Act.

INTERESTING GUARANTEE CASE.

On Tuesday at Montreal, an interesting decision affecting guarantee companies was handed down by Mr. Justice Charbonneau. The action was one taken by the Catholic School Board against the Provident Accident & Guarantee Company, Limited, to recover \$1,700 the amount of a policy issued by the Company to guarantee the performance by a con-

tractor of certain work undertaken for the School Board. On September 21st, 1909, the School Board entered into a contract with Lessard & Co., by which the latter engaged themselves to do the roofing, heating and electric lighting installation in the Meilleur School. On October 28th, the defendant issued a policy guaranteeing that the Lessard Company would fulfill their obligations under the contract. In case they failed, the defendant undertook to pay the School Board \$1,700. On December 8th, the partnership of Lessard & Co. was dissolved, whereupon one of the partners, Frank L. Lessard, continued personally to do the work. In June of the following year he abandoned the job. The School Board forthwith called on the guarantor to make good the amount of the policy.

The latter opposed the suit, alleging that it had guaranteed that Lessard & Co. would do the work. It had never, and never would have guaranteed that Frank L. Lessard would complete the work. Hence when the Lessard Company was dissolved such dissolution naturally brought about a cessation of the work, as far as the Lessard Company was concerned. And, according to the terms of the policy, the School Board was obliged to notify the guarantors of such discontinuance within the thirty days immediately following. This it had failed to do. Hence it lost its rights under the policy.

Mr. Justice Charbonneau, however, followed another line of reasoning. It was untrue, he said, that the dissolution of the Lessard & Company partnership had had the effect of relieving the Lessard Company from the obligations assumed under the contract. In fact, one could regard that company as having ceased to exist only after it had fulfilled the obligations flowing from the contract. Under the circumstances the simple dissolution of the partnership would not justify the School Board in coming to a conclusion that the work called for by the contract had been abandoned. For, after the dissolution, such work had not been really abandoned by the Lessard Company or one of its partners acting for it; hence the School Board was justified in not calling in the warrantor. Moreover, the plaintiff had not performed any act which might be construed into discharging Hamel, the retiring partner, from the obligations assumed by the former partnership under the contract.

As a matter of fact, the work was carried on up till the following June by Frank L. Lessard, under the name of Lessard & Company. As soon as the actual abandonment took place the School Board had called upon the warrantor, within the delay specified in the contract of insurance. Under the circumstances the claim was justified.

Mr. H. A. Richardson, general manager of the Bank of Nova Scotia, states that nothing is definitely settled with regard to the opening of a branch of this Bank in London, England.

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The Dominion Bond Company is offering for public subscription the 7 per cent. cumulative participating preferred stock of the A. Macdonald Company, Ltd., wholesale grocers. This Company was established some 20 years ago with the head office in Winnipeg. There are also eleven branches in the prairie provinces.