

MEREDITH, J.

APRIL 5TH, 1905.

TRIAL.

FLEMING v. CANADIAN PACIFIC R. W. CO.

*Evidence—Action under Fatal Injuries Act—Depositions of Witness before Coroner's Inquest—Admissibility—Absence of Witness—Diligent Inquiry.*

Action under the Fatal Injuries Act brought by the widow and administratrix of the estate of a man who was killed upon defendants' railway, to recover damages for his death.

Plaintiff tendered in evidence the depositions of one Burns taken at the coroner's inquest, at which the railway company and the family of deceased were represented by counsel, who examined or cross-examined the witnesses.

J. E. Day, for plaintiff.

Angus MacMurchy, for defendants.

MEREDITH, J., on the authority of *Sills v. Brown*, 9 C. & P. 601, held the depositions admissible, provided satisfactory proof were given of the absence of witness from the country, or the impossibility of finding him after due inquiry.

Plaintiff being nonsuited on other grounds, the question whether a sufficient case of diligent inquiry had been made was not decided; the Judge inclining to the opinion that a case was not made out.

CARTWRIGHT, MASTER.

APRIL 10TH, 1905.

CHAMBERS.

FULMER v. CITY OF WINDSOR.

BANGHAM v. CITY OF WINDSOR.

*Consolidation of Actions—Different Plaintiffs—Same Defendant—Common Subject—Inconsistent Claims—Stay of Action—Setting down for Trial.*

Motion by defendants to consolidate these actions or stay one of them.

J. P. Mabee, K.C., for defendants.

W. M. Douglas, K.C., for plaintiff Fulmer.

A. R. Clute, for plaintiff Bangham.