

## SHARP CONSTRUCTION CO. v. BEGIN.

1917  
\*Nov. 5, 6.

1918  
\*Mar. 11.

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL  
SIDE, PROVINCE OF QUEBEC.

*Negligence—Master and servant—Faulty machinery—Skilled engineer.*

APPEAL from the judgment of the Court of King's Bench, appeal side (1), reversing the judgment of the trial judge and maintaining the respondent's (plaintiff's) action with costs.

The appellant was in the employ of the company appellant as engineer. The engine was operating a certain number of cog-wheels. These cog-wheels were not covered. It was proved that the appellant was a skilled engineer who was looked to to have the machine in proper order. The accident occurred when the appellant tried to clean a friction pulley near the cog-wheels, while in motion, by holding a rag against it.

The trial court dismissed the action with costs. The Court of King's Bench reversed this judgment, Cross J. dissenting, holding that there was contributory negligence and condemning the appellant to pay \$2,400 to the respondent.

On appeal to the Supreme Court of Canada, after hearing counsel on behalf of both parties, the court reserved judgment, and, on a subsequent day, allowed the appeal with costs, Idington J. dissenting.

*Appeal allowed with costs.*

*F. Roy K.C. and G. H. Montgomery K.C. for the appellant.*

*Belleau K.C. and Alleyn Taschereau K.C. for the respondent.*

\*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.