

re-saw slab machine that was accustomed to become clogged with slabs. The defendant's overseer stated in evidence that the only proper way to clear the saw was to shut off the power and stop the saw. The plaintiff testified that he was not so instructed, and his testimony leads to the conclusion that so far as he received any instructions it was to clear the saw when it clogged without shutting off the power, because the first time the saw clogged, after he began to work on it, a foreman came along and cleared it in that manner. The defendant argued that the failure to shut off the power and stop the saw did not cause the accident because the plaintiff was not injured in clearing the saw of the slab, but in getting it out of the feed-roll chain. This position is untenable. Although the plaintiff did not receive his injury clearing the saw, still if the power had been shut off, the slab when freed from the saw would not have been driven into the feed-roll chain, and the accident would not have happened. The failure to shut off the power could be found to be the proximate cause of the accident.

*Exceptions overruled.*

All concurred.

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Hillsborough, }  
Nov. 6, 1917. }

ARTHUR H. KITCHENER v. LESTER E. McDUFFIE.

CASE, for alienation of the affections of the plaintiff's wife. Trial by jury and verdict for the plaintiff. Transferred by *Branch, J.*, from the January term, 1917, of the superior court, upon exceptions to the argument of plaintiff's counsel. The argument being based upon the evidence the order was

*Exceptions overruled.*

*Doyle & Lucier*, for the plaintiff.

*George W. Clyde*, for the defendant.