

affirmed the judgment of the Mining Commissioner. The Judicial Committee of the Privy Council (Lords Atkinson, Shaw and Moulton) have reversed the decision of the Divisional Court. The questions before the Committee were: What is the nature of an interest in an unpatented mining claim, is it land or is it a chattel? And secondly, whatever the interest may be is it saleable under a *fi. fa.* goods? By reference to the Mining Act their Lordships were led to conclude that the reference to a tenancy at will in the Act has reference solely to the relations of the claimant to the Crown before patent issued, but that the Act confers on the owner of such a right a substantial interest, entitling him to work the claim and to assign his interest which is not liable to forfeiture except for mistake or fraud; and that such interest falls within the category of "lands" within the meaning of the Execution Act. The judgment, however, fails to deal with one point which is expressly raised, namely, whether assuming the interest is saleable in execution could it be sold under a *fi. fa.* goods? Does the judgment mean, although it does not say so, that the interest in an unpatented mining claim is a chattel interest? It seems unfortunate that this point was not explicitly dealt with. It would almost seem as if this part of the argument of the counsel for the respondent had been lost sight of. We should incline to the view that the Judicial Committee held that although the right was an interest in land, yet it was merely a chattel interest.

RAILWAY—LEVEL CROSSING—DUTY TO SOUND WHISTLE—SHUNTING ENGINE—BREACH OF STATUTORY DUTY—CANADIAN RAILWAY ACT (R.S.C. c. 37), ss. 274-276.

*Grand Trunk Ry. v. McAlpine* (1913) A.C. 838 was an appeal from the King's Bench of Quebec and turns upon the construction of the Canadian Railway Act (R.S.C. c. 37), ss. 274-276. Sec. 274 provides that where a train is "approaching a level crossing the engine whistle must be sounded at least eighty rods before reaching the crossing." And s. 276 provides that when in any city, etc., a train is passing along a highway and is not headed by an engine, the company is to station on the part of the train or tender of the engine which is foremost a person to warn persons standing on a crossing or about to cross the track. The plaintiff in the action had been struck down by an engine which was engaged in shunting, and which never crossed more than 100 yards—and, therefore, did not get 80 rods away from the