

Held, also, upon the evidence, that the presumption of intent to prefer was rebutted.

Held, also, that the plaintiff, as assignee for the benefit of creditors, occupied no higher position than his assignor, and could not be regarded as a subsequent purchaser for valuable consideration within the meaning of the Registry Act, so as to avail himself of its provisions with regard to the registration of the assignment before the mortgage.

Arnoldi, K.C., and *P. McDonald*, for plaintiff, appellant.
W. M. Douglas, K.C., for defendant, respondents.

Full Court.]

LANCASTER v. SHAW.

[March 28.

*Penalty—Ontario Election Act—Disqualified person voting—
“Postmasters in cities”—Sub-postmaster.*

A sub-postmaster appointed by the Postmaster-General to the charge of a sub-post office in a city is not a “postmaster,” within the meaning of s. 4 of the Ontario Election Act, and is not liable to the penalty imposed by that section if he votes at an election for the Legislative Assembly.

Judgment of Meredith, J., 10 O.L.R. 604, reversed.

Gibbons, K.C., for defendant, appellant. *Hellmuth*, K.C., for plaintiff, respondent.

[March 28.

LONDON AND WESTERN TRUSTS CO. v. LAKE ERIE AND DETROIT
RIVER R.W. CO.

*Negligence—Railway—Injury to yardsman—Shunting cars—
Absence of warning—Contributory negligence—Failure to
look—Jury.*

A railway yardsman in the ordinary course of his duty was passing behind the most westerly of four cars standing by themselves on a side line. As he was crossing the track, two cars of the defendants, propelled by a flying shunt, came from the east and ran into the standing cars, with the result that he was knocked down, run over, and killed by the car behind which he was passing. He did not see or hear the cars, and no warning was given to him.