

Macdonald, J.]

[Nov. 28, 1910.

PEDLAR v. CANADIAN NORTHERN RY. CO.

*Railway company—Liability for accident at level crossing—
Sounding whistle and ringing bell of engine—Negligence—
Contributory negligence.*

Two of the plaintiff's teams driven by his servants were approaching the level crossing of the highway with defendant's railway. The drivers were on the lookout for trains but saw and heard nothing and proceeded to drive across the track when a train struck and killed one of the teams and damaged the waggon and harness.

The engineer and fireman both swore that the whistle had been sounded as required by section 274 of the Railway Act, R.S.C. 1906, c. 37, but they did not claim that the bell had been rung as that section also required.

The defendants also contended that the drivers should have seen the headlight of the engine and therefore were guilty of contributory negligence, but there was some evidence that the headlight might have been obscured at the moment by escaping steam.

Held, that the plaintiff was entitled to a verdict for the amount of his loss.

Fullerton and Foley, for plaintiff. *Clarke, K.C.*, for defendants.

Book Reviews.

A Treatise of the De Facto Doctrine in its relation to public officers and public corporations, based upon the English, American and Canadian cases; including comments upon extraordinary legal remedies in reference to the trial of title to office and corporate existence. By ALBERT CONSTANTINEAU, B.A., D.C.L., County Judge of Prescott and Russell, Ontario. Toronto: The Canada Law Book Company. Rochester, N.Y.: The Lawyers Co-Operative Publishing Company. 1910.

The author enters boldly into a new field of legal text-writing, and has by this work established for himself a high position as an author. This being the first book on the subject he has been without any help in the arrangement of the great mass of matter before him for consideration.