

defendants, as she alleged, in starting a car while she was in the act of getting into it.

The judgment of the Court was delivered by MEREDITH, J.A.:—There was evidence upon which reasonable men could have found for the plaintiff in this action. According to the plaintiff's testimony, the car was not moving when she attempted to board it; a signal was given, and the car put in motion, when she had her hand on the handrail and one foot on the step, in a position of evident danger if the car were then put in motion. Her evidence fails to bring home to any one, having any control of the car, knowledge of her predicament: but that want of evidence is supplied by the conductor, who admits having seen her, though he exculpates himself in a clear manner, so that the defendants must have failed if the jury believed that part of his testimony: but they did not. Coupling part of the plaintiff's testimony with part of the conductor's, a case is made out: for, though the plaintiff may have had no right to attempt to board the car where she did, yet, having done so and being in a dangerous position, it was an act of actionable negligence on the conductor's part to put the car in motion while, to his knowledge, the woman was in a position, safe while the car was not moving, obviously very dangerous if the car were then put in motion. The jury might, as no doubt they did, have given credit in part only to the evidence of the conductor, and add that to so much of the plaintiff's testimony as made out a case against the defendants.

Appeal dismissed.

D. L. McCarthy, K.C., for defendants. *B. H. Ardagh*, for plaintiff.

HIGH COURT OF JUSTICE.

Boyd, C.]

[Sept. 19.

PATTISON v. CANADIAN PACIFIC RY. CO. AND CANADIAN
NORTHERN RY. CO.

Railway—One railway crossed by another—Signal-man for both—Negligence—Injury to servant of one railway company—Joint servant—Liability.

Action by the widow of a locomotive fireman employed by the defendants, the Canadian Pacific Ry. Co., to recover damages for his death, alleged to have been caused by negligence of a ser-