

The driver of the engine of the plough train, the conductor of that train, Chas. Kelleher, the conductor of the train with which the plough train collided, Arthur Kelly, and the brakeman of this latter train were all examined as witnesses on behalf of the plaintiff.

By their evidence the following facts were proved. That the plough is as high as the engine, that it to a great extent blocks the view ahead of the engine-driver and fireman; that from Woodstock, a station on the line between the city of London and Guelph Junction, there was snow on the line; that from that station the plough was throwing out snow as it moved along, that the engine-driver's view in front was thereby entirely obscured, that he could not see ahead at all, and that he was obliged to control and work his train by the whistles sounded by the men in the plough; that Weymark was in charge of the plough; that it was his (Weymark's) duty to whistle when approaching a level crossing or a station; that he, Weymark, and his assistant, Jones, were the only officials on the train who could see ahead; that the driver relied upon Weymark to give the proper whistles, and that from a crossing half a mile beyond a station named Schaw, six miles distant from the place of collision, Weymark gave no whistle, made no communication of any kind to the engine-driver, though apparently he had duly whistled about half a mile away from that station as he was approaching it and had also apparently whistled properly up to other points; that it was Weymark's duty to whistle a long whistle a mile from each station and a quarter of a mile from level crossings; that Weller, the engine-driver, slackened down his speed to 12 miles an hour when he thought he was approaching Guelph Junction, but that he could not judge how fast he was going in a storm like that which prevailed at the time, and that he was waiting for Weymark to give the signal to stop.

The collision took place about 7.10 to 7.15. The general train rules of the company were put in evidence. There was no evidence given that Weymark had ever had charge of a plough before, or ever had even travelled in one.

The order of the Railway Commissioners runs as follows:—

“No railway company shall permit any employee to engage in the operation of trains, or handle train orders, without first requiring such employee to pass an examination