The Legal News.

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The *Law Journal* (London), referring to the appointment of Mr. M'Intyre, Q.C., to a county court judgeship, mentions the curious fact that "a hundred years ago there had been no 'Mac' whether spelt at large or in brief, on the English bench, and since then we have only had Chief Baron Macdonald and Lord Macnaghten, the latter of whom fills an office not usually called by the name of judge. On the County Court bench we can recall no 'Mac' till last year, except the late Mr. Macnamara, who sat in Middlesex for a year." In the Province of Quebec we have none at present, but the late Justices Mackay and McDougall furnish examples. In Nova Scotia there has been a fair sprinkling. The Chief Justice is a McDonald. In Ontario they are most numerous. The County Court bench of Ontario has a McDonald, a Macdougall, a Mackenzie, a McCarthy, a McCrea, a Macpherson, and a McCurry. There is also a McMahon in the Common Pleas division.

The right of photographers to print photographs from the negative which remains in their possession, came up before Mr. Justice North in the case of *Pollard* v. *The Photographic Company*, Chancery division, Dec. 20. The plaintiff, Mrs. Pollard, had her portrait taken by photography at the defendants' shop at Rochester, and was supplied with a number of the photographs, which were of cabinet size and in vignette style. The photographs were paid for, but nothing was said with regard to the negative, which was retained by the defendants. They subsequently printed photographs from it, and after adding the words "A Merry Christmas' above the portrait, and 'A Happy New Year' beneath it, they exposed them for sale in their shop window, and sold them as Christmas cards. We presume that the face selected for such a purpose must have been beautiful, but Mrs. Pollard was not mollified by the compliment, and an action was brought by her husband, to restrain the defendants from exhibiting or offering for sale the photographs. The motion for an injunction was, by consent, treated as the trial of the action. Mr. Justice North held that the bargain between the customer and the photographer included, in the absence of any express provision to the contrary, an implied agreement that photographs were only to be printed from the negative for the use of the customer, and that the photographer was not entitled to print copies of the photograph for his own use, or for exhibition or sale to any one but the customer, unless the authority of the customer were given either expressly or by implication, and his lordship granted an injunction to restrain the defendants from so doing.

## COURT OF APPEAL, ONTARIO.

Toronto, 1889.

Weir v. Canadian Pacific Railway Co.

*Railway—Highway Crossing—Negligence—Evidence.*

Osler, J.—Assuming that the defendants were guilty of negligence in not sounding the whistle or ringing the bell as the train approached the crossing, it was nevertheless, incumbent on the plaintiff to prove that it was this negligence which caused the injury which he complains of.

The facts appear to be that the plaintiff was driving homewards on a fine still moonlight night, and was approaching the crossing in question from the south. His home was about three miles further on, and he was familiar with the crossing, and knew that a train might be expected to pass about that time from the west. He was sitting sideways in his waggon facing the east. The road rises in a gentle slope to the railway track, which is visible from a point half way up the incline for a distance of about 300 feet west of the crossing, the view of course increasing the nearer the crossing is approached, until the track can be seen for a distance of 800 feet or thereabouts.

The plaintiff's own account of the way in which he drove up to the track and met with the accident is as follows:

Q.—Do you remember approaching the track that night when you were driving home? A.—I understand it thoroughly.