
 REPORTS AND NOTES OF CASES.

 England.

JUDICIAL COMMITTEE OF PRIVY COUNCIL.

Lord Chancellor, Lords Dunedin,
Atkinson, Moulton.]

[13 D.L.R. 618.]

GRAND TRUNK R. CO. v. McALPINE.

1. *Railways—Accident at crossing—Signals—At what place required—City streets—Shunting engine.*

The requirement of sec. 274 of the Railway Act, R.S.C. 1906, ch. 37, that a train on approaching a highway crossing shall sound its whistle when at least eighty rods therefrom is not applicable to an engine engaged in shunting cars in a city yard, which at no time was more than one hundred yards distant from a street crossing.

2. *Railways—Accident at crossing—Lookout—Backing engine—Giving warning of approach—Sufficiency of.*

It is not necessary that a person about to cross a railway track at a street crossing should have actually heard the warning given by an employee standing on the tender of a backing locomotive, in order to relieve a railway company of the duty imposed on it by sec. 276 of the Railway Act, R.S.C. 1906, ch. 37, in running trains not headed by an engine moving forward in the ordinary manner over a level crossing, to have a man stationed on that part of the train then foremost, in order to warn persons standing on or about to cross the tracks; since the warning required is only such that, if given in time to avoid danger, it ought to have been apprehended by a person in possession of ordinary faculties, in a reasonably sound, active and alert condition.

3. *Railways—Contributory negligence—Accident at crossing—Failure to stop, look and listen—Duty of person about to cross track.*

The duty incumbent on a person who is about to cross a railway track at a highway crossing at grade to look for moving trains is not satisfied by merely looking both ways on approaching the tracks; he must look again just before crossing.