some distance to the east of the crossing. When he reached the crossing, a passenger train of the defendants, also travelling easterly, struck his motor-truck, injuring him and damaging the truck and goods. His own evidence was that the box-cars on the siding obstructed his view of the tracks, and that they were so close to the crossing that he did not see past them until he had reached a point 10 feet from the railway track; that he did not see until he got on the track and "stalled" his car; that he did not look until he was 10 feet from the track because "it" was hidden by the box-cars; but he says that at 10 feet from the railway tracks he could see westerly more than 500 feet along the tracks. This evidence of inability to observe until he reached 10 feet from the tracks was completely contradicted by his witness Tyrrell, whose measurements shewed that at a point on the highway 20 feet from the rails there was a clear view past the box-cars standing 30 feet west of the stop-block to an object on the southerly pair of railway tracks distant 645 feet from the crossing; that at a point 30 feet from the rails there was a view past the cars to a point on these tracks 500 feet from the crossing and from a point 50 feet from the crossing to a point on the tracks 430 feet 6 inches from the crossing. It was also apparent from this witness's evidence and his plans that for at least 300 feet from the crossing the view from the highway to the railway tracks (they there run approximately side by side) was unobstructed by the box-cars as they stood at the time of the accident, and that the nearer a person on the highway approached the crossing the further west could he see an approaching train. The only one of all the acts complained of which in the jury's estimation constituted negligence being the position of the box-cars, the proper conclusion could not be otherwise than that, under the circumstances shewn by the evidence put forward by the plaintiff, leaving these cars to stand where they admittedly were at the time was not an act of negligence, whatever might be the explanation of the cause of the plaintiff's injuries and damages. The evidence which the plaintiff himself had put forward did not establish a situation which constituted negligence, nor anything implying that the defendants' act was in itself negligence; what the jury called negligence was not negligence. The case was one which, on the evidence for the plaintiff, could properly have been withdrawn from the jury.

The action should, therefore, be dismissed with costs.