

the sale made to the plaintiff ratified and confirmed by the defendant. Judgment for specific performance, with a reference to the Local Master at Ottawa as to title, interest, etc. The defendant to pay the costs of the action and reference. The costs, if not otherwise paid, to be deducted from the purchase-money. W. S. Hall, for the plaintiff. John Maxwell, for the defendant.

MINOR v. GRAND TRUNK R.W. Co.—BRITTON, J.—Nov. 16.

Railway—Injury to Person and Vehicle Crossing Tracks—Negligence—Findings of Jury—Excessive Speed of Train—Evidence.—The plaintiff was the owner of a motor truck car which he used in his business as a carter at Port Colborne. On the 27th October, 1915, the plaintiff, being in possession of the car and lawfully upon the highway, was obliged to cross the defendants' line of railway; in crossing, the car was struck by the engine of the defendants' train, the plaintiff was thrown to the ground and injured, and the car was completely destroyed. The plaintiff charged negligence of the defendants in running the train which did the damage. The action was for the recovery of the damages sustained, and was tried with a jury at Welland. Questions were submitted to and answered by the jury as follows: (1) Were the defendants guilty of any negligence which occasioned the damage to the plaintiff? A. Yes. (2) If so, what is the negligence you find? A. According to the evidence, we find that the train was going at too high rate of speed at the time of the accident. (3) Could the plaintiff, by the exercise of reasonable care, have avoided the accident? A. No. (4) Damages? A. \$1,000. Upon the answer to the second question, and upon the evidence, the defendants asked for a dismissal of the action. BRITTON, J., in a written judgment, said, after setting out the facts, that there was evidence that the speed was, in the circumstances, in approaching the crossing over which the plaintiff was moving, excessive. If any evidence was given, that ought reasonably to be considered, of excessive speed, and that the accident was occasioned thereby, the case could not be properly withdrawn from the jury. Judgment for the plaintiff for \$1,000 damages, with costs. W. M. German, K.C., for the plaintiff. D. L. McCarthy, K.C., for the defendants.