

After the sale the mortgagees and those claiming through them, including the defendant, paid the taxes on the lot from 1882 to the present time.

*Held*, that service of the notice in question was sufficiently proved by the entry in the handwriting of a deceased person, made in the usual course of business; that, under the circumstances, default in payment was sufficiently proved.

*Held*, also, that as the plaintiff had done nothing to assert his title or his right of possession from the time of the mortgage sale up to the issue of the writ of ejectment, a period of over fifteen years, and as defendant and those through whom he claimed had paid the taxes for over eleven years, and defendant was in actual possession before suit was brought, defendant had, under the Statute of Limitations, acquired a good title to the land. Nonsuit entered.

*Hagel*, Q.C., and *J. D. Cameron* for plaintiff.

*Howell*, Q.C., and *Machray* for defendant.

DUBUC, J.]

[April 2.

BURDETT v. CANADIAN PACIFIC RAILWAY CO.

*Railway company—Common carrier—Negligence—Liability as warehouseman—Notice of arrival of goods—Reasonable time.*

Appeal from County Court.

The plaintiffs claim was for the loss of goods shipped to him at Emerson over the defendants' railway, which were destroyed by fire while still in the car. The car arrived at noon on 30th June, 1893.

According to the evidence of the station agent who was called as a witness for the plaintiff, it was customary for consignees to take delivery of goods directly from the car and to remove them the same day as they arrived, and he only sent post-cards notifying them of the arrival of their goods to those who removed them themselves, but in the case of those who usually employed a drayman he only gave a verbal notice to either Brooks or Hill, the two draymen who did such work, "that there was some freight to be delivered." On this occasion he gave such a notice to Hill. It did not appear that the plaintiff had received the notice, but he had no reason to expect any other or better kind of notice. He was out of town that afternoon, and the fire took place during the following night. It was supposed that it originated in the furnace of the elevator, which was burned down, and the car standing near was also consumed.

The plaintiff claimed that the defendants were liable as common carriers; and, if not, that they had been guilty of negligence in placing the car so near the elevator and away from the freight shed. The judge of the County Court found the defendants guilty of negligence, and entered a verdict for the plaintiff.

*Held*, that under the circumstances the customary verbal notice to the drayman was sufficient notice to the plaintiff of the arrival of the goods, and that a reasonable time had elapsed for such notice to reach the plaintiff and for him to remove the goods; that the transitus was at an end, and the liability of the defendants as common carriers had ceased; and that the fire took place after