

the car, it was the duty of the former to so manage it that it should not run against him. He had plenty of time to stop the car, and in considering whether it was reasonable that he should have done so, the simple nature of the operation he was engaged in is to be regarded, as the car could very easily have been stopped and the work delayed for a time without inconvenience to any one. Instead of doing so or reducing the speed so as to bring the car more under control, he seems to have let it go on, hoping that the plaintiff would move, until it was too late to avoid collision. I do not think that the trial Judge was wrong in holding that for this the defendants must answer. . . . Whatever may be said of plaintiff's negligence, the proximate cause of the accident was defendants' negligence. Perhaps the plaintiff was standing too near the track. I do not think he was consciously doing so. But he was not aware of the approaching car, while the person in charge was aware of him and might have avoided the collision by stopping it in time.

MACLENNAN and MOSS, J.J.A., concurred.

Appeal dismissed with costs.

John Bell, Belleville, solicitor for appellants.

R. D. Gunn, Orillia, solicitor for respondent.

MACMAHON, J.

APRIL 19TH, 1902.

TRIAL.

IROQUOIS ELECTRIC LIGHT CO. v. VILLAGE OF
IROQUOIS.

Municipal Corporation—Electric Light Plant—Compulsory Expropriation—"Have Supplied"—R. S. O. ch. 223, sec. 566, sub-sec. 4, as amended by 62 Vict. (2) ch. 26, sec. 35, sub-sec. 4 (a).

Action by the plaintiffs (the company and Patrick Keefe) for a mandatory injunction requiring defendants to make an offer to purchase the electric light plant in the village of Iroquois belonging to the plaintiff company, and, if the offer be not accepted, then for the appointment of an arbitrator for the purpose of valuing the same under the Municipal Act to determine the compensation to be paid for said plant and to compel defendants to take it over at the value so fixed.

D. B. Maclennan, K.C., and C. H. Cline, Cornwall, for plaintiffs.

A. B. Aylesworth, K.C., and Adam Johnston, Morrisburg, for defendants.