PETRIE v. HUNTER.

GUEST v. HUNTER.

Mechanics' Lien—Contracts and sub-contracts.

The judgment reported 3 O. R. 233, affirmed with costs.

Reeve, for the appellant.

Black, for the respondent.

BEEMER v. OLIVER ET AL.

The judgment reported 3 O. R. 523, was affirmed on appeal.

Moss, Q.C., and *Fitch*, for appellant.

Cassels, Q.C., for respondent.

MCDONALD v. CROMBIE.

Fraudulent judgment—Preference.

The judgment reported 2 O. R. 243, affirmed on appeal.

J. H. Macdonald, for appellant.

D. E. Thomson, for respondent.

QUEEN'S BENCH DIVISION.

Applied Curran v. Grand Trunk Ry. Co. M.L.R. 5 S.C. 254.

CORRIGAN v. GRAND TRUNK RY. CO.

Negligence—Sufficiency of Railway Bill—Speed of trains in cities, etc.—Fencing track on highway—Contributory negligence.

By the Consolidated Railway Act, 1879, every locomotive engine shall be furnished with a bell of at least thirty pounds weight, which shall be rung at the distance of at least eighty rods from every crossing over a highway, and be kept ringing until the engine has crossed the highway. The learned judge charged the jury, that the object was that a person passing at the crossing should receive warning of the approach of the train, and the bell must be such a bell as would reasonably give that warning.

Held, a proper direction.

By the same Act no locomotive shall pass through any thickly peopled part of any city, etc., at a speed greater than six miles an hour unless the track is properly fenced.

Held, that this applies as well to the crossing of a highway as to other parts of a city, etc., and that the defendants were guilty of a breach of the Act in running a train at a greater speed than six miles an hour across a highway in a village where the only portion of the track not properly fenced, was that portion which crossed the highway.

The plaintiff was well acquainted with the locality in question, and had known it for many years as a dangerous crossing, but when approaching it in his waggon did not look along the track to see if a train was coming, though he could have seen the train in question in time to have stopped his horses before reaching the track. He did not see the approaching train until he was on the track, and it was too late to avoid being struck. The jury found for the plaintiff.

Held, that there was evidence of contributory negligence, and a new trial was directed.

KELSO v. BICKFORD.

Railway company—Claim by president for services—Resolution of directors—Contract with company—Consolidated Railway Act—Novation.

The plaintiff claimed a sum for services as President of the Grand Junction Railway Company, under a resolution of the Directors, and he alleged that the defendants had assumed the liabilities of the Company.

Held, that the Directors had no power to adopt such a resolution, it being a contract by the plaintiff, directly for his own benefit with the Company, and contrary to sec. 19, sub-s. 16 of the Consolidated Railway Act, 1879.

Held, also that, not being a valid claim against the Company, it could not be made a claim against the defendants by novation.

GILBERT v. GODSON.

Agreement to excavate gravel—Reservation of land adjacent to fences—Right to lateral support for reserved land.

The plaintiff agreed with the defendants that they should dig gravel from the plaintiff's pits, and the agreement contained the following clause: "I also reserve eight feet from line of fences to protect them."

Held, that the plaintiff was not entitled to lateral support for the eight feet so reserved, and, therefore, the defendants were not liable for damage caused by excavating up to, but not beyond, the eight feet limit.

Tilt, Q.C., for the plaintiff.

J. K. Kerr, Q.C., and *Neville*, for the defendants.