

cross over the side track to reach the centre platform, when the engine and tender which had been detached from the rest of the train and switched on to the side track, and were backing down to pick up a car some fifty yards distant, ran over and injured him. The plaintiff was looking in the opposite direction from that from which the engine and tender were coming, and therefore did not see them; and it appeared that had he been looking out he must have seen them before he attempted to cross, and so could have avoided the accident, as it was only a second or two from the time he started to cross until he was struck, and there was no obstruction to his view. In an action for damages the jury having disagreed.

*Held*, that the plaintiff's evidence having shewn that the accident was caused by his own negligence and want of care, the defendants were not liable; and judgment was ordered to be entered for them.

*Quere*, whether an engine and tender constitute a train within sec. 52 of R. S. C. ch. 109, so as to require a man to be stationed on the rear thereof to warn persons of their approach; but in any event, there was a man so stationed here who did give warning.

*Held*, also, that the statutory obligation to ring the bell, or sound the whistle, only applies to a highway crossing, and not to an engine shunt on defendants' own premises. *Casey v. The Canadian Pacific R. W. Co.*, 574.

2. *Incorporation by Provincial Act—Subsequent legislation by Parliament of Canada—Applicability of secs. 4 to 39 of the general Railway Act of Canada.*—A railway company, incorporated by an Act of the

Ontario Legislature, was thereby authorized to construct, equip, and operate a railway between certain points.

By an Act of the Dominion Parliament the Governor-in-Council was authorized to grant a subsidy to the company; and by another Act of Dominion Parliament the company's railway was declared to be a work for the general advantage of Canada, and the company was authorized to build a branch line. No further powers of any kind were conferred upon the company by the Dominion Parliament.

*Held*, that the effect of the declaration that the railway was a work for the general advantage of Canada was to bring it under the exclusive legislative authority of the Parliament of Canada, but that the Acts of the Ontario Legislature previously passed were in no way affected; that the railway in question was not one "constructed or to be constructed under the authority of any Act passed by the Parliament of Canada" (see sec. 3 of the Railway Act of Canada, R. S. C. ch. 100); and therefore secs. 4 to 39 of R. S. C. ch. 109 did not apply to it; and a motion to a Judge of the High Court of Justice under sec. 8 for a warrant of possession of certain lands was refused. *Re St. Catharines and Niagara Central R. W. Co. and Barbeau*, 583.

3. *Expropriation of lands—Dominion Railway Act or Provincial Railway Act—Work for general advantage of Canada—Notice.*—In an application for an injunction to restrain the defendants, who were incorporated by Statutes of the Ontario Legislature, from applying to a County Judge for a warrant for possession of certain lands re-