
REPORTS AND NOTES OF CASES

Dominion of Canada.

IN THE EXCHEQUER COURT OF CANADA.

Burbidge, J.]

[Jan. 16.

AMERICAN DUNLOP TIRE CO. v. GOULD BICYCLE CO. ET AL.

Patent of invention—Infringement—Pioneer discovery—Evidence.

Where one who says he is the inventor of anything has had an opportunity to hear of it from other sources, and especially where delay has occurred on his part in patenting his invention, his claim that he is a true inventor ought to be carefully weighed; but credit, under all the circumstances, ought to be given to the witnesses by whose evidence the claim is supported.

W. Cassels, Q.C., Lash, Q.C., and Anglin for plaintiffs. Osler, Q.C., Ridout and Ross for defendants.

Burbidge, J.]

COLPITTS v. THE QUEEN.

[March 6.

Government railway—Accident to the person—Liability of Crown—Negligence—50-51 Vict., c. 16, s. 16—Undue speed.

It is not negligence per se for the engineer or conductor of a train to exceed the rate of speed prescribed by the time table of the railway. If the time table were framed with reference to a reasonable limit of safety to any given point, then it would be negligence to exceed it; but, aliter, if it is fixed from considerations of convenience and not with reference to what is safe or prudent.

While in actions against railway companies, the law is that the obligation of the company is to carry its passengers with reasonable care for their safety, and it is responsible only for injuries arising from negligence; in actions against the Crown in respect of accidents to the person on Government railways the liability of the Crown must be found exclusively within the provisions of 50-51 Vict., c. 16, s. 16 (c), and the plaintiff cannot succeed unless he establishes that the injury he has sustained resulted from the negligence of some officer or servant of the Crown, while acting within the scope of his duties or employment upon such railway.

A. W. McRae and C. A. Skinner, Q.C., for suppliant. W. Pugsley, Q.C., and E. H. McAlpine for the Crown.