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## Reports and Notes of Cases.

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### Dominion of Canada.

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#### SUPREME COURT.

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Sask.] CANADIAN NORTHERN RY. CO. v. DIPLOCK. [May 25.

*Railways—Negligence—Ejecting trespasser from moving train—  
Liability for act of servant.*

As a train was moving away from a station, where it had stopped, the conductor ordered a brakeman to eject two trespassers from it. On proceeding to do so the brakeman found a man stealing a ride upon the narrow ledge of the engine-tender and, in a scuffle which ensued, plaintiff who was on the edge of the ledge, was pushed off the train and injured. In an action for damages, the jury found that the brakeman had been at fault in attempting to eject the man whom he saw while the train was in motion and that it was "dubious" whether he was aware of the presence of the plaintiff in the dangerous position.

*Held per Fitzpatrick, C.J., and Idington and Anglin, J.J.,* (affirming the judgment appealed from, 9 West. W.R. 1052), that the reckless indifference of the brakeman, in circumstances in which he was aware of the probably perilous position of the plaintiff, was an act of negligence for which the railway company was liable.

*Per Davies and Brodeur, J.J., dissenting:*—As it was not shown by the evidence nor found by the jury that the brakeman was aware of the presence of the plaintiff in a dangerous position the plaintiff, being a trespasser, could not recover damages against the company for the injuries he sustained.

Appeal dismissed with costs.

*O. H. Clark, K.C.,* for the appellants. *Chrysler, K.C.,* for the respondent.

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B.C.] WEST VANCOUVER v. RAMSAY. [June 24.

*Municipal corporation—Partial closing of highway—Exchange for adjacent land—Validity of by-law—Assent of ratepayers—  
R.S.B.C., 1911, c. 170, s. 53, s-ss. 176, 193.*

Under the provisions of sub-sections 176 and 193 of section 53 of the British Columbia Municipal Act, R.S.B.C., 1911,