

without notice of any assignment from the vendor to a third person, is valid, and the registration of a caveat by the transferee does not amount to such notice.

*Armour, K.C., and Clarke, K.C., for appellant.*

*Bennett, K.C., and Sinclair, K.C., for respondent.*

B.C.]

[Oct. 15, 1917.

GEALL V. DOMINION CREOSOTING CO.

*Negligence—Findings of jury—Railway company—Cars left on tracks—Extraneous interference, anticipation of.*

The respondent was engaged in delivering creosoted paving blocks brought in freight cars over the British Columbia Electric Railway's tracks. The employees of the railway company, after having placed the cars so loaded at points indicated by the servants of the respondent, had taken care to have the brakes applied by the air compressor and to have blocks put in front of the wheels. Later on, the respondent's men, for their convenience, moved the cars further down the grade, put back the blocks and applied the brakes by such simple contrivances as they found available in the absence of a shunter. Then some school boys unloosened the brakes on the car furthest uphill which being propelled by its own gravity against the lower ones, had all the cars so moved on that a collision took place at the foot of the hill between these freight cars and a passenger coach of the Electric Railway.

*Held, Davies and Duff, JJ., dissenting, that, upon the evidence, the employees of the respondent should have anticipated that the school boys might release the cars and that the respondent was liable for having taken no steps to guard against such interference.*

*Per Idington, J.—The question as to whether or not this interference was such an occurrence as ought to have been foreseen and provided against is not a question of law, but a question of fact within the province of the jury.*

*Per Davies and Duff, JJ., dissenting.—The proximate and effective cause of the accident was the interference of the school boys, which the respondent had no reason to anticipate.*

*Jarvis, for appellant.*

*Tilley, K.C., for respondent.*