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## DECISIONS IN COMMERCIAL LAW

THE GRAND TRUNK RAILWAY COM-  
PANY AND J. R. ANDERSON, ET AL.—A  
passenger aboard a railway train, storm-  
bound, at a place called Lucan Crossing  
on the Grand Trunk Railway, left the  
train and attempted to walk through the  
storm to his home a few miles distant.  
Whilst proceeding along the line of the  
railway, in the direction of an adjacent  
public highway, he was struck by a loco-  
motive engine and killed. There was no  
depot or agent maintained by the  
company at Lucan Crossing, but  
a room in a small building  
there was used as a waiting-room.  
passenger tickets were sold, and fares  
charged to and from this point, and, for  
a number of years, travellers had been al-  
lowed to make use of the permanent way  
in order to reach the nearest highways,  
there being no other passage-way pro-  
vided. In an action by his administrators  
for damages, it was held by the Supreme  
Court of Canada, that, notwithstanding  
the long user of the permanent way in  
passing to and from the highways by  
passengers taking and leaving the com-  
pany's trains, the deceased could not,  
under the circumstances, be said to have  
been there by the invitation or license  
of the company at the time he was killed,  
and that the action would not lie.

## REMOVING AN ASSIGNEE.

The question is asked how, and on  
what grounds an assignee may be re-  
moved. Section 8 of the Assignment and  
Preferences Act provides that: "An as-  
signee may be removed and another sub-  
stituted, or an additional assignee appoint-  
ed by a judge of the High Court or of  
the County Court where the assignment  
is registered." The application may be  
made summarily, serving notice upon  
both the assignee and the assignor. The  
Court acts to protect the interests of  
creditors, and to secure the removal of  
the assignee, it is necessary to show that  
those interests have been, or are likely to  
be, prejudiced by the action of the as-  
signee. Insolvency is a bar to prevent  
one from acting in this capacity. It is  
not necessary to show actual misconduct  
on the part of the assignee; it has been  
held sufficient, for instance, to show that  
the assignee was unduly furthering the  
interests of the assignor or a creditor. By  
the Act, "Where a new or additional as-  
signee is appointed, the estate shall forth-  
with vest without a conveyance or trans-  
fer, and he shall register an affidavit of  
his appointment, in the office in which the  
original assignment was filed."

Word comes from Kootenay that the  
Canadian Pacific Railway Company has  
decided to erect a 1,000-ton smelter in  
the Boundary Creek Country, B.C. There  
was shipped to New York last week  
from the smelter at Trail, B.C., copper  
plate, aggregating in weight 353,438  
pounds, and of an approximate value of  
\$100,000. This is the first large ship-  
ment from the smelter under C.P.R.  
management.

## JOHN MACKAY

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signees, etc. Therefore, Mr. Stephens will act on behalf of  
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