

(2) That he had the power to remove persons who, by disorderly conduct, obstructed or interfered with the business of the court; but upon the evidence, the plaintiff was not guilty of such conduct, and had not exceeded his privilege as counsel for the accused; and the proper exercise of such privilege could not constitute an interruption of the proceedings so as to warrant his exclusion.

If the justice had issued his warrant for the commitment of the plaintiff, and had stated in it sufficient grounds for his commitment, the court could not have reviewed the facts alleged therein; but, there being no warrant, the justice was bound to establish such facts upon the trial as would justify his course.

*Aylsworth, Q.C.*, for the plaintiff.

*Clute, Q.C.*, for the defendants.

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*Common Pleas Division.*

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Div'l Court.]

[March 4.

WEEGAR v. GRAND TRUNK R.W. CO.

*Railways—Negligence—Evidence—Suffering of—Nonsuit—New trial.*

The plaintiff was an assistant yardsman in the defendants' employment, whose duty it was to marshal and couple cars subject to orders of G., the conductor of the shunting engine, to whose orders the engine-driver was also subject. According to the plaintiff's evidence, while attempting to carry out specific instructions received from G., which G. denied, as to the coupling of certain cars, G. negligently allowed the engine to be backed up, thus driving the cars together and injuring the plaintiff. The plaintiff had for a long time been in defendants' employment, was thoroughly experienced in his duties, had never received specific instructions of this character before, and he knew before he went in between the cars that the engine was in motion backing up, and only eight feet distant. On a motion to set aside a verdict found by the jury for the plaintiff the court, though not satisfied with the verdict, was of opinion that there was evidence for the plaintiff to be submitted to the jury, and therefore refused to interfere, either by granting nonsuit or a new trial.

*W. R. Smyth* for the plaintiff.

*Osler, Q.C.*, contra.

Div'l Court.]

[March 4.

REGINA v. MCCAY.

*Liquor License Act—Druggist—Conviction for allowing liquor to be consumed on the premises—Validity of—Imprisonment, validity of—Power to amend.*

It is an offence under the Liquor License Act, R.S.O., c. 194, and amendments thereto, for a chemist or druggist to allow liquor sold by him, or in his