

Q.B.]

NOTES OF CASES.

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S. dated and registered in 1867, but the registrar had omitted to enter defendants deed in the abstract index, and in consequence, when the plaintiff enquired at the registry office before taking his deed, he was told that the patentee had made no conveyance. *Held*, under 29 Vict. c. 24, D., that the Registrar's omission did not invalidate the registration, or deprive defendants' deed of its priority.

The divisions of a statute, under which the clauses are arranged and classified, may be looked to as affording a key to the construction.

The plaintiff had cut timber on lot 24, which was his, and on lot 25, believing that he owned both lots, and all had been drawn away together to a lake about three miles distant. Defendants' agent took away a quantity, which had been cut on both lots, being forbidden by the plaintiff, who swore that he could have distinguished the timber cut on each lot by the marks, and told defendants' agent so, but that the agent said he would take it no matter where it came from. *Held*, that defendants were liable in trespass for the timber cut on lot 24.

The authorities as to confusion of property reviewed.

JULIA ELIZABETH BLACKMORE, ADMINISTRATRIX OF LEWIS HARROLD BLACKMORE, DECEASED, v. THE TORONTO STREET RAILWAY COMPANY.

Street R. W. Co.—Accident to newsboy—Right of action—Negligence—Contributory negligence.

The deceased, a boy selling newspapers, got on a street railway car at the rear end and passed through the car to the front platform, where the driver was standing. He stepped to one side behind the driver, and fell off or disappeared from the car, there being no step on that side, and was killed by the car running over him. He had said just before that he was going on some distance further in the car, and the conductor at the time stated that he had reported the want of a step to the owners of the railway, but it had not been attended to. There was plenty of room in the car, but it was proved that passengers were always allowed to stand on the platform. It was not shewn that the deceased had either paid or been asked for his fare, but it appeared that newsboys were allowed to enter the cars to sell newspapers without being charged.

Held, that the deceased was lawfully on the car, and being so was entitled to be carried safely, whether he was a passenger for reward or not.

Held, also, MORRISON, J., dissenting, that there was evidence for the jury of negligence on

the part of defendants in the absence of the step, and no such contributory negligence on the part of the deceased as should, as a matter of law, prevent the plaintiff's recovery. A non-suit was therefore set aside.

Upon appeal this decision was reversed, on the ground that unless the deceased was upon the cars as a passenger, on a contract of carriage express or implied, and not as a mere licensee or volunteer, he had no right of action against the defendants for the absence of the step, which was no breach of duty to him, but must take the car as he found it; and that upon the evidence he must be taken to have been a licensee only.

REGINA v. WILLIAM HENRY SMITH.

Indictment for Murder—Evidence of accomplice—Empannelling Jury—Challenge for cause—Trial of.

Upon a trial for murder it appeared that the deceased was found dead in his stable in the morning, killed by a gun shot wound. The prisoner was a hired man in his house. His widow the principal witness for the Crown, testified that she and her husband went to bed by ten o'clock; that afterwards her husband, being aroused by the noise in the stable, got up and went out; that she heard the report of a gun; that a few minutes after the prisoner tapped at the door which she opened; that he said he had done it; that he told her to keep quiet, and give him time to get into bed, which she did; that she waited a few minutes and then gave the alarm, calling the prisoner and another man who was sleeping in the house, who went out together and discovered the body. She also swore that the prisoner had told her he was planning the murder, but that she did not then consider him in earnest. There was evidence, apart from her own, of her improper intimacy with the prisoner, and a true bill had been found against her for the murder.

The jury were told that there was no direct evidence corroborating her testimony; the rule requiring the evidence of an accomplice to be confirmed was explained to them, and they were directed that before convicting they should be satisfied the circumstantial evidence relied upon by the Crown did corroborate her testimony. They convicted. Questions were reserved under C. S. C. ch. 112, whether the widow was an accomplice, and whether there was sufficient evidence to submit to the jury.

Held, that whether she was an accomplice or not, there was no ground for disturbing the verdict.