

HOSKIN v. MICHIGAN CENTRAL R. R. Co.—DIVISIONAL COURT—
MARCH 9.

Railway — Injury to Passenger Alighting — Defective Step—Negligence—Jury.]—An appeal by the defendants from the judgment of MAGEE, J., in favour of the plaintiff, upon the findings of a jury, for the recovery of \$1,250 damages for personal injuries sustained by the plaintiff in alighting from a car of a train of the defendants at Amherstburg. The plaintiff alleged that the injuries were attributable to the defendants' negligence in permitting the car to be equipped with a defective and improper step. The Court (FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.) held (RIDDELL, J., dissenting) that they could not interfere with the verdict. The plaintiff was not bound to adduce specific evidence that the use of such a step constituted negligence. The jury had a right to infer that the use of a rickety, insecure, or unsuitable box for the purpose of assisting passengers to alight, constituted negligence. RIDDELL, J., was of opinion that the jury had not found sufficient facts upon which to base a finding of negligence on the part of the defendants, even if such a finding could in any sense be based upon the fact that the portable step was not of the same length as the car step. He was in favour of directing a new trial. The judgment of the Court was that the appeal should be dismissed with costs. D. W. Saunders, K.C., for the defendants. J. H. Rodd, for the plaintiff.

HARRIS v. WISHART—MASTER IN CHAMBERS—MARCH 10.

Foreign Commission—Postponement of Trial.]—Motion by the defendant for a commission to take evidence in England and to postpone the trial until the return. Held, that, while it may be a great inconvenience to the plaintiff to have the trial delayed, the first consideration is a fair trial to all concerned: *Ferguson v. Millican*, 11 O. L. R. 35; and the evidence sought is material. Order made for a commission. W. J. Boland, for the defendant. J. E. Day, for the plaintiff.

WOOD BROTHERS v. GALL LUMBER Co.—DIVISIONAL COURT—
MARCH 10.

Contract—Sale of Lumber—Breach—Damages—"Mill-run."]
—Appeal by the defendants from the judgment of LATCHFORD, J.,