

*Privy Council Appeal No. 59 of 1919.*

The Canadian Pacific Railway Company - - - - *Appellants*

*v.*

David Herman - - - - - *Respondent.*

FROM

THE COURT OF APPEAL OF SASKATCHEWAN.

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF  
THE PRIVY COUNCIL, DELIVERED THE 10TH JULY, 1919.

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*Present at the Hearing :*

THE LORD CHANCELLOR.

VISCOUNT HALDANE.

LORD BUCKMASTER.

LORD PARMOOR.

MR. JUSTICE DUFF.

[*Delivered by* THE LORD CHANCELLOR.]

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In this case the plaintiff, who was in the employment of the defendants as a train conductor, brought an action to recover damages for personal injuries. The case was tried at length before a jury and many witnesses were called upon both sides. At the conclusion of the evidence the learned Judge put several questions to the jury. The second of those questions was in the following terms:—"Were the defendants guilty of negligence in placing the switch stand in question where it was located?" The jury answered that question affirmatively. The third of the questions was: "If so, was the defendants' negligence the direct and immediate cause of the misfortune?" That question was also answered affirmatively by the jury.

The question and the only question for their Lordships to determine is whether or not there was evidence upon which the jury might without perversity reach the conclusions which they did. Their Lordships have listened with close attention to the argument of Mr. Tilley, and it is sufficient to say upon that argument that in the opinion of their Lordships there was evidence upon which the jury might, if they thought proper, reach the conclusion which they did reach, and their Lordships are not prepared to interfere with the decision arrived at by the jury.

Their Lordships will therefore humbly advise His Majesty that the appeal be dismissed with costs.

In the Privy Council.

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THE CANADIAN PACIFIC RAILWAY COMPANY

v.

DAVID HERMAN.

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DELIVERED BY THE LORD CHANCELLOR.

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