

Important Judgement

(Continued from Page 1)
and that such negligence consisted in failing to maintain a sign-board at the level crossing pursuant to Section 267 of The Railway Act. The jury further found that neither Chester Burke nor the deceased was guilty of any negligence causing or contributing to the accident.

Railway's Contention
"There can, we think, be no question that the Railway's failure to see to the replacement of the highway crossing sign, which had been temporarily taken down by a highway construction firm, constituted negligence which would render the Railway liable if it was an effective cause of the collision. The Railway's counsel, however, strongly maintains that the absence of the sign was not an effective cause of the accident, but that the sole effective cause was the negligent driving of Chester Burke.

"We think that the evidence is almost strong enough to support the Railway's contention on this point. Burke, as he approached the scene of the collision, saw what he took to be an intersection of some kind leading into the highway from his right. If Burke had been maintaining anything like a reasonably careful outlook to guard his right at the intersection which he thought he was approaching, he could have seen, at some distance from the crossing, the whole train, including twelve cars and the engine.

"At that time, an air whistle was sounded on the rear passenger car, the regular horn was blowing on the Diesel engine, and the engine's bell was also ringing. Both the motor car and the train were proceeding at moderate rates of speed, the train at 18 or 20 miles per hour, and the motor car at not more than 20 miles per hour.

"Burke actually saw the train when he was still 45 feet away from it, or a distance of approximately 32 feet from the intersection. At his rate of speed, if his brakes were working properly, he would still have had ample time to bring his car to a halt before reaching the railway crossing.

"These factors seem to us to amount to almost convincing evidence that Burke should have

had, and did have, a clear chance of avoiding any collision, even if, by reason of the Railway's negligence in allowing the crossing sign to remain displaced, he was actually not aware that he was approaching a railway crossing.

Not Sufficient

"For the purpose of this appeal, however, and as between the Appellant and the Railway, it is not sufficient to establish that the fault was principally, or practically altogether, that of Burke or of someone other than the Railway. If the Railway's negligence effectively contributed to the collision in any degree, the Railway is liable to the Appellant in the full amount of the compensation awarded. Although it appears to us to be a reasonable inference from the evidence that Burke had a clear chance to avoid any collision, and that therefore the Railway's prior negligence did not effectively cause the collision in any degree whatever, yet we are not prepared to say that such is the only reasonable inference.

"The emergency which may arise at an intersection of a railway with a highway is of a different nature from that which may be anticipated at an intersection of two highways. Two motor vehicles approaching a highway intersection at moderate speeds, even if they do not see each other until they have practically entered the intersection, can usually decelerate rapidly enough, and manoeuvre their positions skillfully enough, to avoid a collision. With a railway crossing, that is not the case.

"The train is large and heavy, and when it enters the intersection it occupies the whole area devoted to its right of way; it cannot manoeuvre its position on the crossing to any extent whatever; nor can it decelerate rapidly enough to avoid an imminent collision; as is obvious from the fact that the Respondent's train, driven at about 18 miles per hour, required 400 feet to come to a stop, although the emergency brake was effectively applied, and the train's engineer considered that he made a 'good stop'.

Crossing Sign Important

"These factors indicate the importance of the maintenance of highway crossing signs along the railway's right of way, and we have come to the conclusion that it was not unreasonable for the jury to infer that the absence of the crossing sign was an effective cause of the collision. It would be an entirely different question if we were asked to pronounce an opinion as to the reasonableness of their finding that the Railway's negligence was the sole effective cause. That question, however, does not arise as between the immediate parties to this appeal.

"We are therefore, with some reluctance, forced to disallow the cross-appeal.

"As to the main appeal on the question of inadequacy of compensation. We are of the opinion that the jury, having found, as they did, that the Railway's negligence was the sole effective cause of the collision and of the consequent death of Robertson, might well have allowed a larger compensation to his widow and family. If we were asked to fix the amount of compensation in the first instance we should, in all probability, assess it at 2 1/2 or 3 times the amount allowed by the jury.

"We are also not forgetful of the fact that recent authoritative cases have perhaps indicated a narrowing of the margin of discrepancy, which entitles a Court of Appeal to increase or diminish the amount of general damages or compensation awarded by a jury's verdict.

Cases Cited

"In the case of Nance v. B. C. Electric Railway Co. (1951) 3 D.L.R. 705, the jury awarded general damages or compensation in the sum of \$35,000. The opinion of the three Judges of the British Columbia Court of Appeal all regarded this amount as being excessive, the Chief Justice arriving at \$20,000 as a proper figure. Sidney Smith, J. A., favoring \$12,000, and O'Halloran, J. A., favoring a new trial.

"On appeal to the Privy Council, in spite of the very complicated factors appearing in the case, Viscount Simon said that their Lordships were satisfied that a jury could not reasonably have computed the total recoverable damage at a figure exceeding \$22,500. He added: 'This figure in their view falls short of the \$35,000 awarded by a margin wide enough to justify the British Columbia Court of Appeal in rejecting the jury's figure.' By request of the parties, the Board proceeded to determine the proper amount of damages to be awarded, which was thereupon fixed at \$22,500.

"In Fick v. B. C. Electric Railway Co. (1951) 1 D.L.R. 81, the jury awarded general damages of \$16,500. The British Columbia Court of Appeal reduced the finding of general damages to \$11,500. The Supreme Court of Canada confirmed this reduction, although Kerwin, J., who delivered the majority judgment, indicated that an intermediate sum might have been proper. Of the dissenting Judges, Taschereau, J., stated that the jury's award was perhaps larger than he would have personally given, but he did not see that it was plainly unreasonable and unjust; while Cartwright, J., did not find anything shocking in the original award, nor did he view the sum awarded as being so large as to indicate that the jury proceeded on any improper principle or failed to perform their duty of acting reasonably and judicially in the matter.

"These two decisions appear to indicate some relaxation of the

rule as frequently stated in earlier cases that an appellate tribunal should not disturb the finding of a jury as to the measure of general damages unless the award is so excessive as to shock the understanding of reasonable persons, or so outrageous as no reasonable jury could give.

Margin of Discrepancy

"It should be observed, however, that both the cases just cited involved the downward revision of a jury's award. It would seem logical that a wider margin of discrepancy would be necessary to justify an upward revision, than a downward revision. In other words, it is an easier thing for an appellate court to be sure that such and such a sum represents the maximum reasonable award, than to conclude that such and such a sum represents the minimum reasonable compensation. In other words, the factors which operate to determine the minimum of the margin of reasonableness are more variable than those which go to determine the maximum.

"We find in the present case so many inculcable factors and possibilities, such as the various ages of the respective children; the possibility that they may be married or become earners themselves at an early age; the possibility that the widow herself may re-marry; the possibility that the deceased himself, had he lived, might be unemployed seasonally or in the future, or that his ability to earn might not last for the full period of the joint life expectancy; the possible benefits accruing to the widow under the will of the deceased; as well as the general bearing of various social security benefits; that we are unable to say that the amount of compensation awarded by the jury was wholly unreasonable, or so inordinately low that sensible jurors could not reasonably have awarded it as an adequate compensation.

"From the materials appearing upon the record, it would seem clear that the jury, in reaching their assessment of compensation, did not take into consideration the disbursements made for funeral expenses. As these are specifically allowable by The Fatal Accidents Act, S. 10, we think they should be added.

"Per Curiam: The judgment of the Court will therefore be that the cross-appeal be disallowed, and that the appeal be allowed, only to the extent of adding the funeral expenses of \$177.50, to the compensation awarded by the jury; and that the amount of the judgment below be amended to read \$577.50.

"As both Appellant and Respondent were partly successful on this appeal, there will be no order as to costs of appeal."

William Howitt, the English author who died in 1879, had one poem published when he was only 13 years old.

Bedeque Notes

Her many friends regret to learn that Miss Aletha Noonan is a patient in the Prince County Hospital.

Mr. Thomas Dunn suffered a stroke on Saturday, May 10th. His friends hope for an early recovery.

Mrs. Walter Gould, DeSable, and her daughter Alma and Miss Sylvia Worthers, Halifax, were visitors to Bedeque on Sunday, May 11th.

Mrs. Fulton Simpson, Belmont, Lot 16, has been visiting with her daughter, Mrs. Ellis Webster and Mr. Webster, Central Bedeque.

Mr. and Mrs. George Ellis and children, and Mrs. Calvin Cotton, Tyne Valley and Northam, were guests of Mr. and Mrs. E. S. Weeks recently.

—Mr. and Mrs. Elliot Wright, Middleton, Prince County, left last week to attend the graduation of their son, Thompson, at the Guelph Agricultural College, which takes place this week.

Mr. and Mrs. Edgar Clark and Mr. and Mrs. George Clark and two children, Summerside, were visitors at the home of Mrs. Marie Schurman on Sunday, May 11th.

Among those from here attending the Musical Festival in Charlottetown, on Saturday, May 10th, were Miss Louise and Miss Mildred Callbeck, and Miss Emma Johnson, Central Bedeque, and Mrs. Edna Jenkins, this village.

Mr. William MacFarlane, Lower Bedeque, left on Wednesday, May 14th, for trip to the Pacific Coast. He will make headquarters with his son Howard in Vancouver. He expects to be away about three months.

Miss Noreen Henderson spent a few days with her parents, Mr. and Mrs. George Henderson, Fernwood, previous to her graduation from Prince County Hospital on May 13th.

Mr. Donald MacDonald, Ottawa, National Treasurer of the C.C.F. party, has been spending a few days in P. E. I., guest of Mr. Douglas MacFarlane, Fernwood, Bedeque. While here he contacted party members in various parts of the Province and was guest speaker at meetings in Wellington and Alberton.

A large congregation assembled in Bedeque United Church on Sunday morning, May 11th. It was the observance of "Mother's Day" and music appropriate to the occasion was rendered and the pastor, Rev. M. Crowe, delivered a very fine sermon, emphasizing the vital importance of the Christian home.

The monthly meeting of the Bedeque W. I. was held on May 7th at the home of Mrs. Lloyd Jewell. Nine members and one visitor present. Mrs. Walter Bowdler, in charge of programme, showed interesting pictures and cards of her trip to Florida. Collections and donations amounted to \$13.50. Next meeting at the home of Mrs. A. A. McNis, meeting closed with National Anthem and lunch served by hostess and committee in charge.

The "Half Century" Club met at the home of Mrs. Orville Johnson, on April 26th. Twelve members answered roll call by passing in a "white elephant" gift. Programme took the form of a questionnaire, and lunch was served by the hostess. The club met again on May 24th at the home of Mrs. L. Mutart with twelve members present. Plans were made for holding a pantry sale and bazaar on May 28th. An enjoyable programme was carried out which was a clever imitation of the well known radio programme, "Treasure Trail". This caused much merriment. Lunch was served by the hostess.

A three-act play was presented in Central Bedeque Hall on Tuesday evening, May 13th, by members of the B.Y.F.U. entitled "Winning Winnie". The hall was filled to capacity. Those taking part were: Helen Bowness, George Doull, Edith MacEwen, Marina MacCallum, Phyllis Britten, Alexander Green, George Campbell, Leslie Waugh, Wendell Myers and Edward Pearson. The actors did their parts well, considering this line of entertainment. Between acts Elizabeth Green sang a solo and David Schurman gave a "trumpet" solo. Mrs. Walter Leard was pianist for the evening.

HEAVY TIMEPIECES
Early-type watches were really portable clocks with a mainspring regulated by a balance escapement, as in clocks.

TORONTO STOCKS
Continued from page 12
3200 MacKenzie 93
3100 MacLeod 390
2000 Madson 153
2000 Magnet 180
2800 Marlette 188
8000 Margolis Oils 10
1000 Marbenor 18
3000 Marcus 18
2500 Martin 5 1-2
2000 Matarrow 24 1-2
700 McDoug Seg 38 1-4
28 McIntyre 78
50 McIvor Drill 18
1000 McLellan 5
500 McMarmac 9 1-2
3000 Merrill 51
12388 Mid-Cont 44
12300 Mill City P 29
300 Mindama 287
1000 Minda-Scot 65
600 Ming Corp 14 1-2
500 Model O 230
1250 Mylanac 8 3-4
4100 Neo Ldg 140
1500 Neo Pts 375
3700 Nesbitt Labine 305

Table of stock prices for various companies including 9033 New B Dom, 2320 New Cal, 32550 N Concord, etc.

Table of stock prices for various companies including 110 Waite Am, 1500 Westuko, 12400 West Ashley, etc.

Table of stock prices for various companies including 125 C Marconi, 2100 Dalhousie, 11800 Yukon Con, etc.

Table of stock prices for various companies including 425 Bank of Mont, 45 Bank of NB, 400 Can Bank of Com, etc.

Table of stock prices for various companies including 250 Can Brew, 170 SImp A, 180 SImp B, etc.

Table of stock prices for various companies including 125 C Marconi, 2100 Dalhousie, 11800 Yukon Con, etc.

Table of stock prices for various companies including 425 Bank of Mont, 45 Bank of NB, 400 Can Bank of Com, etc.

Table of stock prices for various companies including 250 Can Brew, 170 SImp A, 180 SImp B, etc.

Table of stock prices for various companies including 1500 Ranwick, 7888 Red Poplar, 11288 Redpic, etc.

Table of stock prices for various companies including 13000 Ruppunni, 6000 Rundle Oils, 300 San Ant, etc.

Table of stock prices for various companies including 13110 Scurry, 1800 Selburn, 1500 Selburn Wts, etc.

Table of stock prices for various companies including 1345 Un Keno, 5200 Un Lead, 4600 Un Oils, etc.

Table of stock prices for various companies including 1722 Upp Can, 6000 Van Rol, 2485 Ventures, etc.

Table of stock prices for various companies including 2400 Violamac, 2500 Vulcan, 925 Sullivan, etc.

Table of stock prices for various companies including 1700 Sylvania, 4500 Taku, 3500 Teck-H, etc.

Jewish Christian Preacher Visits Central Bedeque



Rev. Alexander Marks, Hebrew Christian Evangelist, well known in the British Isles, and the Field Representative of the American Board of Missions to the Jews of New York, will be visiting Central Bedeque on May 18th to 23rd, and will speak each evening in the Fundamental Baptist Church.

Mr. Marks has travelled throughout North America preaching in some of the largest churches and auditoriums in Canada and the United States. His message is an unusual one as he deals with world affairs in the light of Bible prophecies. His messages include: "What Will the United Nations Do With a Russian Army in Palestine?" "How Near Are We To The Great Battle of Armageddon?"

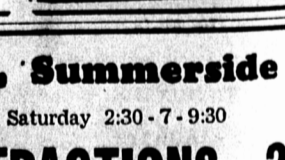
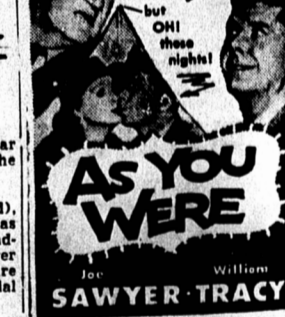
Mr. Marks believes in the ultimate defeat of the forces of evil, and the glorious triumph of Jesus Christ. It was while he was conducting an extensive campaign in Canada that he lost his eye sight. But this has not proved a handicap to him.

CRAPAUD THEATRE

FRIDAY 8:30
SATURDAY 7:30 and 9:30
"Alias Nick Beal"
Starring: Ray Milland and Audrey Trotter. Good performance by Milland who plays the part of Lucifer. Short subjects.

REGENT

Today 3:30 - 7 - 9:15
Saturday 2:30 - 7 - 9:15
BIG DOUBLE BILL



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and
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CAMEO THEATRE

KENSINGTON
Thur.-Fri.-Sat. 7:15-9:15. A popular comedy for all members of the household—"LOUISA"
Starring Ronald Rengan (as Dad), Charles Coburn, Ruth Hussey (as Mom), Spring Byington as Grandma. The funniest thing that ever happened to a family. A picture anyone should enjoy. Also Serial and News.

CAPITOL Summerside

Tonight 7-9:30; Saturday 2:30-7-9:30
2 - BIG ATTRACTIONS - 2
Richard Arien - Vera Ralston
in "THE TIGER MAN"
With Eric Von Stroheim
A Chilling Drama and Action Packed Mystery.



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after 6:00 p.m.

Advertisement for Scott-McHale shoes, featuring images of three different styles of men's shoes and the text 'Canada's Finest Shoes For Men "Scott-McHale" Canada's Best Value'.

Advertisement for Holman's shoes, featuring the text '14.95 HOLMAN'S SUMMERSIDE'.