

Negligence of the defendants was not to be found in any of the facts proved; and so, whether the cloak in question was stolen by some one not connected or by some one connected with the school, or was first taken by some other pupil by mistake or otherwise without intention to steal it, it could not be found that the defendants were answerable in damages for its loss.

The appeal should be allowed and the action dismissed.

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SECOND DIVISIONAL COURT.

OCTOBER 1ST, 1919.

NUGENT v. GUNN.

*Negligence—Collision in Highway of Bicycle and Automobile—Injury to Bicyclist—Evidence—Onus—Motor Vehicles Act, sec. 23—Automobile Turning without Giving Visible or Audible Warning—Findings of Fact of Trial Judge—Appeal.*

Appeal by the defendants from the judgment of ROSE, J., 16 O.W.N. 145.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LATCHFORD, and MIDDLETON, JJ.

J. M. Ferguson, for the appellants.

J. E. Anderson, for the plaintiff, respondent.

THE COURT dismissed the appeal with costs.

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SECOND DIVISIONAL COURT.

OCTOBER 1ST, 1919.

JEANNETTE v. MICHIGAN CENTRAL R.R. CO.

*Judgment—Action for Malicious Prosecution—Verdict of Jury in Favour of Plaintiff—Judgment Entered for Plaintiff and Affirmed by Appellate Court—Discovery of Fresh Evidence—Judgment Obtained by Fraud—Motion under Rule 523—Order of Judge in Court Directing New Trial—Appeal.*

Appeal by the plaintiff from the order of LENNOX, J., 16 O.W.N. 137.