

you got to the devil strip? A. No. Q. And you knew that the car you saw up there had to come down? A. Certainly. I expected I had plenty of time."

The nephew, William Ecker, said he was standing after selling his papers (he was then a newsboy) on the west side of Yonge street, opposite the Wanless store, in the Simpson block, and while there he saw a lady, whom he at that time did not know, crossing towards him from the Tremont hotel. The lady was in about the middle of the track, "and the car was running fast, and she hadn't time to go back, and the fender hit her, and she fell down." In cross-examination he was asked: "Q. When did you first see the car that struck her? A. I did not see the car until it knocked her down. I saw the car coming fast down the street and knock her down. Q. Where did you first see the car? A. The car came from Queen street—the other side. Q. But when did you first see it, and where did you first see it? A. On Simpson's side, the side I was standing on. . . . Q. Had it crossed Queen street when you first saw it? A. Yes, it was across Queen street. Q. Had it got down as far as Simpson's when you first saw it? A. Yes. . . . Q. Which did you see first, the car or the lady? A. I saw both. Q. Which did you see first? A. The lady. Q. And then you saw the car afterwards? A. When I saw the car, the accident was happening—just at the same time. Q. So the car was quite close to you when you first saw it? A. Yes. . . . Q. Did you see the fender drop? A. Yes. Q. Did it drop quickly? A. Yes, but the car was running quick. Q. And she got underneath the fender? A. Yes. . . . Q. The car stopped before the front wheel went over her? A. Yes."

This comprises essentially the whole evidence produced by plaintiffs in support of the alleged excessive speed. There was evidence that the gong was not rung, so there could not have been a nonsuit on the whole case.

Then the defendants called witnesses, and, among others, one Muir, a porter at Simpson's, an eye-witness to the whole occurrence from one side of the street, and Williams, a driver for Simpson, also an eye-witness from the opposite side of the street, both of whom said that the car was not going fast, and that its speed, in their opinion, was about 4 or 5 miles an hour. Firth, another eye-witness, who was in the south-bound car, said the car was stopped in about 3 yards from the time the plaintiff Sarah Brill fell; while still another eye-witness, also on the car, said that at the time of the