

**The**  
**Ontario Weekly Notes**

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APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

FEBRUARY 7TH, 1919.

\*JARVIS v. LONDON STREET R.W. CO.

*Street Railway—Injury to Passenger Alighting from Car—Invitation to Alight while Car Moving—Opening of Exit-door before Stopping Place Reached—Question whether Motion Perceptible—Question for Jury—Nonsuit—New Trial—Evidence—Statement of Conductor Made after Accident—Inadmissibility—Not Part of Res Gestæ.*

Appeal by the plaintiff from the judgment of ROSE, J., at the trial, dismissing the action at the close of the plaintiff's case, on the ground that there was no evidence of negligence to go to the jury.

The appeal was heard by BRITTON, RIDDELL, LATCHFORD, and MIDDLETON, JJ.

R. G. Fisher and W. G. R. Bartram, for the appellant.

J. M. McEvoy and R. H. G. Ivey, for the defendants, respondents.

MIDDLETON, J., in written reasons for judgment, said that the plaintiff was a passenger on a car of the defendants going eastward upon Dundas street. Nearing the place where he intended to alight, he signalled the conductor to stop the car. He complained that the exit-door of the car was opened before the car had actually stopped; and that, relying upon the opening of the door being, in the circumstances, an invitation to alight, he stepped on the pavement, and, owing to the motion of the car, was thrown down

\* This case and all others so marked to be reported in the Ontario Law Reports.