Held, affirming the decision of the Court of Appeal, GWYNNE, J., dissenting, that under the circumstances the jury were justified in finding that the illness was the natural and probable result of the ejectment, and that the cause of damage was not too remote.

Appeal dismissed with costs.

Bicknell for the appellant.

McWhinney for the respondent.

Ontario.] [May 6.

CITY OF TORONTO *v.* TORONTO RAILWAY COMPANY.

Negligence—Obstruction of street—Accumulation of snow—Question of fact—Finding of jury.

An action was brought against the city of Toronto to recover damages for injuries incurred by reason of snow having been piled on the side of the streets, and the street railway company was brought in as third party. The evidence was that the snow from the railway tracks was piled upon the roadway, and that from the sidewalks was placed there also. The jury found that the disrepair of the street was the act of the railway company, which was therefore made liable over to the city for the damages assessed. The company contended, on appeal, that the verdict was perverse and contrary to evidence.

Held, affirming the decision of the Court of Appeal, that, under the evidence given of the manner in which the snow from the track had been placed on the roadway immediately adjoining, the jury might reasonably be of opinion that, if it had not been so placed there, the accident would not have happened, and therefore the verdict was not perverse.

Appeal dismissed with costs.

Laidlaw, Q.C., and *Bicknell* for the appellant.

Fullerton, Q.C., for the respondent.

Ontario.] [May 6.

GOSNELL *v.* TORONTO RAILWAY COMPANY.

Negligence—Street railway—Management of car—Excessive speed—Contributory negligence.

G., while driving a coal cart along one of the streets of Toronto, started to cross a street railway track, and before getting across the cart was struck by a car coming along the track, and G. was thrown out and injured. In an action against the railway company for damages, the evidence was that G. did not look to see if a car was coming before going on the track; that when he went on the car coming was 70 or 80 feet away; and that it was going at an excessive rate of speed. A verdict for G. was sustained by the Divisional Court and Court of Appeal.

Held, affirming the decision of the Court of Appeal (21 A. R. 553), GWYNNE, J., dissenting, that the verdict should stand; that persons crossing the tracks had a right to rely on the cars being driven moderately and prudently, and if not so driven the company was responsible for injury resulting therefrom; and that G. was not guilty of contributory negligence, for if he had looked he would have seen that he had time to cross, assuming that the car was going