

“His Lordship:—Something that is a little wide of this case, but it has been brought up in Court recently. Do you constantly take out parties at night, such as you had on this night? A. Well, I am all the time taking parties out.

Q. All the time taking them out? A. Well, not . . .

Q. Any prohibition by your employers against the use of their taxis for such purposes? A. Well, that is what their cars are for, taking people out for a ride by the hour.

Q. That is what they are for; that will do. That has nothing to do with this case at all.

Mr. MacGregor:—I should think not my Lord.

His Lordship:—It has a good deal to do with what was brought before me by the grand jury and with what the people of this country have been discussing with regard to the purpose to which these motor vehicles are put.

Mr. MacGregor:—I submit your Lordship should have some evidence before coming to that conclusion.

His Lordship:—I have the evidence of this case and the evidence of this witness. That is sufficient for my purpose. It is aside altogether from this case.”

Extract from the learned Judge's charge to the jury:—

“Gentlemen of the jury:—As I said to you some time ago, there is only one question here for your decision, and that is, which of these two men is to blame for the accident? If Finmark, the plaintiff, cannot recover, and the defendant can recover from the plaintiff upon his claim. If Allan is to blame, then the plaintiff is entitled to recover and the defendant company cannot recover on their claim. . . .

On the night of the 25th and 26th of September last, Henry Finmark, a chauffeur for the plaintiff, took the plaintiff's car, without the plaintiff's permission, but that does not matter in the present case. We have nothing to do with that. He took out the plaintiff's car, his employer being away, and at Child's restaurant, not far away from here, took in two girls, sisters, and another girl, and a chauffeur like himself, and they started out in the plaintiff's car, going out King street and through High Park in the west end of the city.

At about the same time Allan was employed by the witness Lawson or his friend, to take two girls with whom they had very little acquaintance, out towards High Park and to drive slowly for an hour. You can imagine what the purpose was in such a case. Girls almost strangers to these two young men, in the back part of a taxicab at that hour of the night.