

was no evidence on the part of plaintiff to submit to the jury. In other words, that his conduct by his own admission is such as to shew that he was the cause of his own injury. He was properly upon the street. The fact that he was playing in the street would not necessarily prevent his recovering if he were injured by defendants' negligence: *Ricketts v. Village of Markdale*, 31 O. R. 180, 610. It is said in *Farrell v. Grand Trunk R. W. Co.*, 2 Can. Ry. Cas. 250, 2 O. W. R. 85, that the *Ricketts* case was cited and doubted by some of the members of the Court of Appeal; but it has not, so far as I know, been overruled. . . .

Reference was made to by-law No. 366 of the town of Orangeville, intituled a by-law to prevent children riding behind waggons, etc. . . . The by-law is in part as follows: "No person shall coast on a handsleigh or sleigh, or tobaggan, or other device, on any street or sidewalk within the municipality of Orangeville; it shall be the duty of the chief constable to notify any child or person doing so of the consequences of violating this by-law, and after a second offence to summon and to bring such child or person before the magistrate."

Murray defines "coasting" to mean, the winter's sport of sliding on a sled down hill, and hence the action of shooting down hill on a bicycle or tricycle. Here the by-law uses the words "other device," and, having regard to the popular meaning of "coasting" and the expression of the by-law, I am of opinion that the by-law is sufficiently broad to apply to the present case. There was, however, no evidence that plaintiff had been warned, and coasting in the street does not appear to be an offence punishable under the by-law until the accused is warned, although it is something which the town council desired to prohibit in the manner indicated. But I do not think defendants are entitled to avail themselves of the by-law as an answer to plaintiff's claim. It was probably admissible as evidence for what it was worth, as shewing the action of the municipality in regard to the rights of children playing upon the street; but it was manifestly passed to prevent sport of that kind from interfering with the ordinary use of the street, and I do not think a by-law passed for that purpose can be invoked by the railway company for another purpose. . . .

[Reference to *Gorris v. Scott*, L. R. 9 Ex. 125.]