

N. B.] IN RE CUSHING SULPHITE FIBRE CO. [Sept. 27.

*Appeal per saltum—Winding-up Act.*

The Supreme Court Act does not authorize a judge of the Court to grant leave to appeal per saltum in a case under the Dominion Winding-up Act. Application for leave refused with costs.

*Tee'd*, K.C., for applicant. *Pugsley*, K.C., contra.

Province of Ontario.

COURT OF APPEAL.

Full Court.]

[June 29.

DELAHANTY v. MICHIGAN CENTRAL RY. CO.

*Railway—Disorderly passenger—Duty to eject or restrain—Negligence—Damages—Remoteness.*

A passenger travelling from Detroit to Buffalo on defendant's train who was somewhat excited from liquor, but physically capable of taking care of himself, was guilty of several disorderly acts, and molested two fellow passengers, a gentleman and a lady, who were in their sleeping berths. He was put off the train at Bridgeburg, a station near the end of the International Railway Bridge crossing the Niagara River. He followed the train on foot, and after a scuffle with the watchman on the bridge jumped off, or fell off the bridge into the river, and was drowned. In an action under Lord Campbell's Act by the widow and infant child of deceased,

*Held*, 1. Under the circumstances defendants were justified in putting deceased off the train at Bridgeburg, and were neither obliged to put him under restraint and carry him to Buffalo, nor to place him in charge of someone at Bridgeburg.

2. On the evidence it was impossible to say whether deceased fell off the bridge accidentally or threw himself off: and that it was impossible to say that his death was the natural or probable result of his being removed from the train.

3. There was no evidence of any negligence on the part of the defendants, fit to be submitted to a jury, and that plaintiff should have been nonsuited.

*Hellmuth*, K.C., and *Saunders*, for the appeal. *Shepley*, K.C., and *Pettit*, contra.