

*PROXIMATE AND REMOTE CAUSE.*

The value of the maxim of Lord Bacon, *In jure non remota causa sed proxima* (in law, the immediate, not the remote cause of any event is regarded), in so far as it is applicable to torts, has been considerably lessened by the judgment of the Supreme Court delivered by Mr. Justice King in *Grinsted v. Toronto Railway Company*, 24 S.C.R. 570.

The facts of this case are shortly as follows: A young man was ejected from one of the company's cars on a cold night in winter, took cold in consequence, and suffered from an attack of bronchitis and rheumatism. In addition to the damages recovered for the breach of contract to carry, assault and putting off the car, assessed at \$200, he was held entitled to recover \$300 for the sickness, etc., as the natural and probable result of the ejection. Gwynne, J., dissenting.

The case is remarkable for the two dissenting judgments, one in the Court of Appeal by the able and brilliant Chief Justice, and the other in the Supreme Court by Mr. Justice Gwynne—one of the most capable and careful jurists that has ever graced the Supreme Court Bench—who agrees with the opinion expressed by the Chief Justice in the Court of Appeal. Mr. Justice Street, who tried the case with a jury, after instructing the jury as to the principles upon which they were to assess damages for breach of contract, assault and ejection, said: "Now if you find that the plaintiff is entitled to damages; if you find that his illness was the natural or probable result from his having been turned out of the car on that night, then find damages upon that ground as well." This portion of the charge formed the Waterloo of the case, which was fought out through the whole gamut of appeals, Divisional Court, Court of Appeal and Supreme Court.

Sir Thomas Galt, C.J., in his judgment in the Divisional Court, (24 O.R. 686) as do all the judges in his Division, distinguished this case from *Hobbs et ux v. London and S. W. Railway Co.* L.R. 11 Q.B. 111, by pointing out the fact that this was an action founded in tort as well as for breach of contract, while that was an action simply for breach of contract. In the *Hobbs Case*