

life or expectation from him to give her a right of action in respect of his death; and there should be a new assessment of damages unless the plaintiff was content to accept \$750.

4. There should be a new trial upon the question of the plaintiff's right as widow and administratrix, evidence having been discovered since the trial going to shew that the plaintiff was the true widow.

5. If the letters of administration were rightly granted to the plaintiff as widow, they related back so as to validate the action.

Trice v. Robinson, 16 O.R. 433, and *Murphy v. Grand Trunk R.W. Co.*, unreported decision of a Divisional Court, May 27, 1889, applied and followed. Judgment of IDINGTON, J., 7 O.L.R. 747, reversed.

Clute, K.C., and *A. R. Clute*, for plaintiff. *Shepley*, K.C., and *R. H. Greer*, for defendants.

Trial—Meredith, J.]

[July 9.

CITY OF HAMILTON *v.* HAMILTON STREET R.W. CO.

Street railways—Contract with municipality—Payment of proportion of gross receipts—Intra vires—Meaning of "gross receipts."

Covenant by the defendants to pay to the plaintiffs a certain proportion of defendants' gross receipts was held to be not beyond the powers of the plaintiffs, a city corporation, and defendants, a street railway company.

Upon the proper construction of the covenant the term "gross receipts" was held to include fares paid by passengers without the corporate territorial limits of the plaintiffs, where these passengers began their journey upon the defendants' railway beyond such limits; and also to include traffic receipts not yet earned, such as receipts from the sale of passengers' tickets still outstanding.

McKelcan, K.C., for plaintiffs. *Armour*, K.C., and *Levy*, for defendants.

Anglin, J.]

[July, 13.

ATTORNEY-GENERAL FOR ONTARIO *v.* TORONTO JUNCTION RECREATION CLUB.

Company—Cancellation of letters patent—Action by Attorney-General—Order in Council pendente lite—Injunction—Crown—Extra judicial opinion.

An action having been brought by the Attorney-General against an incorporated company for a declaration that they were carrying on an illegal business and for forfeiture of their charter, the Attorney-General, while the action was pending, summoned the defendants before him to shew cause why their charter should not be revoked by order in council.

Held, that, whether the right of cancellation of letters patent of incorporation be now only statutory (see R.S.O. 1897, c. 191, s. 99), and merely