S. H. Blake, Q.C., *H. E. Irwin*, and *A. C. Macdonell* for the appellants.
Osler, Q.C., and *J. E. Robertson* for the respondent.

September 11, 1894. The majority of the court, without dealing with the question of law, ordered a new trial, without costs here or below, being of opinion that, from the answers of the jury, it was not possible to say with certainty what the cause of the accident was.

BURTON, J.A., was of opinion that the answers, while ambiguous, did not go far enough to show any negligence on the defendant's part, and, therefore, that the action failed.

From Q.B.D.] [Sept. 26.

MCDONALD *v.* DICKENSON ET AL.

Municipal corporations—Municipal councillors—Pathmaster—Negligence—Ways—Notice of action—R.S.O., c. 73.

This was an appeal by the defendants from the judgment of the Queen's Bench Division, reported 25 O.R. 45, and was argued before HAGARTY, C.J.O., BURTON, OSLER, and MACLENNAN, JJ.A., on September 26th, 1894.

J. M. Glen and *J. A. McLean* for the appellants.

N. McDonald and *W. J. Tremeear* for the respondent.

At the conclusion of the argument the appeal was dismissed with costs. The court agreed with the views expressed in the judgment below as to notice of action, and as to the further point raised by the appellants, that the right of action, if any, was against the township, expressed no opinion, thinking that that question had not been properly raised by the pleadings or tried. Leave to amend was given.

Queen's Bench Division.

Div'l Court.] [June 21.

MORTON *v.* COWAN.

Company—Shares—Sale under execution—Validity of assignment not entered in books—R.S.O., c. 157, s. 52—Equity of redemption—R.S.O., c. 64, s. 16.

A *bona fide* assignment or pledge for value of shares in the capital stock of a company incorporated under R.S.O., c. 157, is valid between the assignor and the assignee, notwithstanding that no entry of the assignment or transfer is made in the books of the company; and, as only the debtor's interest in property seized can be sold under execution, the rights of a *bona fide* assignee cannot be cut out by the seizure and sale of the shares under execution against the assignor after the assignment.

R.S.O., c. 157, s. 52, considered and construed.

Semble, that nothing passes by such a sale under execution; for the words "goods and chattels" in s. 16 of the Execution Act, R.S.O., c. 64, do not include shares in an incorporated company so as to authorize the sale of the equity of redemption in such shares.

W. R. Riddell for the plaintiff.

Wallace Nesbitt and *Monro Grier* for the defendants.