was not any great physical injury, in the sense that there were any bones broken or any great bruising or abrasion of the surface, but there may be a physical injury of a serious nature which is not indicated by any external mark. So, therefore, I leave the whole question to you to say what damages he ought to recover for the injury, if you think he has sustained any."

Mr. McCarthy's objection is not, I think, well founded. In the Henderson case this Court, if not with reluctance, at least without enthusiasm, followed, without, in my opinion, any intention of extending, the principle of law declared in the case in the Privy Council of Victorian Railways Commissioners v. Coultas, 13 App. Cas. 222. In that case the medical testimony was to the effect that the plaintiff had received a severe shock from the fright, for she was not touched, and that the illness from which she afterwards suffered was the consequence of the fright, and that the shock would be a natural consequence of the fright; the question was not submitted to or passed upon by the jury, but was reserved for the opinion of the full Court. And what was actually determined was that "damages arising from mere sudden terror, unaccompanied by any actual physical injury, but occasioning a nervous or mental shock, cannot, *under such circumstances,* be considered a consequence which in the ordinary course of things would flow from the negligence of the gate-keeper:" see p. 225.

In the Henderson case, as in the Coultas case, there was no actual impact, that is, no contact with the defendants' engine. What happened was that the plaintiff's horses were frightened by the engine and ran away, thus injuring themselves, the carriage, harness, and the plaintiff. The plaintiff recovered for the injury to the horses, carriage, and harness, and also $400 in respect of the shock to himself caused by "blow or blows," but failed to recover a further sum of $600 assessed by the jury as due "in respect of personal injury resulting *exclusively* from mental shock." No objection was apparently taken at the trial by counsel for the plaintiff to the mode in which the questions were submitted to the jury. And it was with the question thus presented that this Court was called upon to deal, and in doing so felt constrained by the decision in the Coultas case to disallow the item of $600 in respect of the personal injury "resulting *exclusively* from mental shock," all the other items of damages, including the $400 for the shock caused by "blow or blows," having been allowed.

The Coultas case, as the decision of an ultimate court of appeal, is still, of course, a binding authority in this province, although it is impossible not to feel that the situation is not satisfactory, and that the decision is to be applied with careful discrimination, when