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FERGUSON, J.

MARCH 31ST, 1904.

TRIAL.

GOSNELL v. TORONTO R. W. CO.

Street Railways—Injury to Person Crossing Track—Negligence—Contributory Negligence—Failure to Look a Second Time—Nonsuit.

Action for damages for injuries received by plaintiff by reason of an express waggon which he was driving being run into by a street car upon defendants' electric railway.

The plaintiff was driving east along Richmond street in the city of Toronto and the collision occurred when he was crossing Yonge street. The car was going south on the west side of Yonge street. The collision occurred at night.

The plaintiff in his evidence at the trial said that he could not see up Yonge street before arriving at the corner of Richmond and Yonge streets, owing to a large building at the corner.

“Q. When you reached that corner what did you do?

“A. I looked up and down to see if there were any cars coming, and there was none coming up, but I seen one coming down. It was about opposite the hotel there, coming down Yonge street. . . .

“Q. What rate was it going at?

“A. When I seen it first I could not say exactly, but when it came near me I know it must have been running about 10 miles an hour.

“Q. Did the car slacken its speed at all from the time you saw it?

“A. No, sir.

“Q. From the time you saw the car first, how far did you go before you were struck?

“A. I went from the crossing on to the track, where they struck me, and I was very near clear of it when they struck the hind wheels. . . .