

The wife was being driven in a cutter by her son along a street which crossed three tracks of the defendants, and when the cutter was thirty feet away a "silent" car passed along one of the tracks. The son pulled the horse up suddenly, with the effect of throwing the mother out of the cutter and so producing the injury complained of.

The jury found that the defendants were guilty of negligence, and that the son by his driving contributed to the accident.

Held, that, upon the evidence, the finding of contributory negligence could not be interfered with; and that the injury was too remote a consequence to be attributed to the negligence of the defendants. It was not necessary to consider whether actual impact was indispensable.

Lount, Q.C., for plaintiffs.

Oster, Q.C., for defendants.

Div'l Ct.] [Feb. 4.
COUNTIES OF LEEDS AND GRENVILLE v. TOWN
OF BROCKVILLE.

Canada Temperance Act—Application of fines
—49 V. c. 48, s. 2—Construction of orders-in-council—County and town.

The Canada Temperance Act came into force in the united counties of L. and G. on 1st May, 1886. On 2nd June, 1886, the Parliament of Canada passed the Act 49 V., c. 48, s. 2 of which provided that the Governor-in-Council might from time to time direct that any fine, etc., which would otherwise belong to the crown for the public uses of Canada, should be paid "to any provincial, municipal or local authority which, wholly or in part, bore the expenses of administering the law under which such fine, etc., was enforced, or that the same should be applied in any other manner deemed best adapted to attain the objects of such law and to secure its due administration."

On 29th September, 1886, an order-in-council was passed directing that all fines, etc., recovered or enforced under the Canada Temperance Act within *any city or county* which had adopted the Act, which would otherwise belong to the Crown for the public uses of Canada, should be paid to the treasurer of the city or county, as the case might be, for the purposes of the Act.

On the 15th November, 1886, a second order-

in-council was passed directing that the first should be cancelled, and that all fines, etc., recovered or enforced under the Act within *any city or county or any incorporated town separated for municipal purposes* from the county, should be paid to the treasurer of the city, incorporated town, or county, as the case might be, for the purposes of the Act.

The town of B. was at the time the Act was brought into force an incorporated town separated from the counties of L. and G. for municipal purposes; and between the dates of the two orders-in-council the police magistrate of the town paid to the treasurer of the counties \$750, the amount of fines recovered and enforced by him for violations of the Canada Temperance Act within the town.

Held, STREET, J., dissenting, that, in the absence of any application by the treasurer of the counties of the moneys so paid to him, the town of B. was entitled to recover it from the counties. The passing of the second order-in-council was a complete revocation of the first, and the second was retroactive in the sense that it provided for the application of all fines, etc., theretofore recovered or enforced.

PER STREET, J.—The first order-in-council operated as a gift from the Crown to the municipality, with an intimation added as to the purpose to which it was expected the gift would be applied, but carrying with it no legal obligation that it should be applied in any particular manner. It was a complete gift; the money was finally at home, so far as the Crown was concerned, when the municipality received it, and the revocation of the order could not revoke a complete transaction, nor retract that which had been actually done under it.

Shepley, for the plaintiffs.

Fraser, Q.C., and *Aylesworth*, for defendants.

Div'l Ct.] [Feb. 4.
WILLS v. CARIAN.

Libel—Question for jury—New trial—Misdirection—Objection at trial—Pleading—Fair comment—Admissibility of evidence of truth of matters commented upon.

In actions of libel new trials are not granted merely on the ground that the verdict is against evidence and the weight of evidence. It is