

she went around the rear of the car from which she had just alighted, and attempted to cross the parallel track, where she was struck by a car which was negligently run past the stationary car at an unusually high rate of speed.

2. The negligence of the defendant street railway company was sufficiently shewn so as to prevent the withdrawal of such question from the jury, where the evidence disclosed that sufficient caution was not observed in running a street car towards a car standing on a parallel track discharging passengers at a street crossing where they were regularly discharged and received, and where, to the knowledge of the company, it was the habit or custom of passengers to cross a parallel track in order to reach another street, and that the car struck and injured the plaintiff, who had just alighted from the stationary car, and without noticing the car approaching from the opposite direction, passed around the rear of the standing car and stepped upon the parallel track.

Cooper v. London Street R. Co., 5 D.L.R. 198, affirmed.

3. Where there is no reasonable evidence upon the whole case whether adduced by the plaintiff or the defendant upon which the jury could find in the plaintiff's favour in an action of negligence, the case should be withdrawn from them and the action dismissed; it is not necessary to go through the form of directing the jury to find a verdict for the defendant and of having such verdict recorded. (*Dictum per Meredith, J.A.*)

Hellmuth, K.C., for defendants, appellants. *Sir George C. Gibbons*, and *G. S. Gibbons*, contra.

Province of Manitoba.

KING'S BENCH.

Metcalf, J.]

[March 10.

CANADA LAW BOOK CO. v. BUTTERWORTH & CO. AND BUTTERWORTH & CO. (CANADA). (9 D.L.R. 324.)

Injunction—Contract rights—Competing business—Evidence—Contracts—Suggestive facts—Part performance—Statute of Frauds—Construction—Intention of parties—Several papers—Estoppel—Equitable estoppel by conduct—Continuation—Exercising option.