

Scott v. Morley, 20 Q. B. D. 120, in an action against a married woman, with such verbal alterations as are necessary to adapt that form to a judgment against a widow: Softlaw v. Welch, [1899] 2 Q. B. 419.

It is not, in the view I have expressed, essential that I should discuss the other ground urged. But I may say that it was not shewn that there was good and probable cause for believing that defendant was about to quit Ontario with intent to defraud her creditors. She is keeping a boarding-house in London, and on her examination as a judgment debtor she said that her brother, a physician in Pontiac, Michigan (to whom she had sent \$3,000, proceeds of insurance on her husband's life), had offered her a home, but she did not state whether she intended to accept his offer or not.

The order for the arrest of defendant must be set aside with costs.

The sheriff will be protected.

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DECEMBER 27TH, 1904.

DIVISIONAL COURT.

SMITH v. NIAGARA, ST. CATHARINES, AND TORONTO R. W. CO.

*Railway—Injury to Animal Crossing Track—Way—Highway  
—Negligence — Neglect to Give Warning — Contributory  
Negligence—Findings of Judge—Appeal.*

Appeal by defendants from judgment of Judge of County Court of Lincoln in favour of plaintiff for \$175 and costs. A servant of plaintiff was driving plaintiff's horse and waggon along a narrow way which led across a track of defendants in the village of Merritton. The way was arched over, and the view on both sides was obstructed by buildings and other obstacles which hemmed in the way on both sides until within a distance of 3 feet 6 inches of the track of defendants. The waggon was piled high with empty tin cans, and, the way being uneven, the servant was occupied as he passed under the archway in holding the cans on his waggon to prevent their falling off. As he emerged from the archway, travelling at a walk, the horse was struck by an engine of defendants, in charge of 4 men, which had just shunted some cars to a lime house near the spot, and was returning at a rate of 2 to 4 miles an hour past the archway. The horse was forced against the sides of the archway and injured, and this action was brought to recover damages for the injuries.