

sion of the defendant and her predecessors in title extended to the fences, the plaintiffs failed in their contention that the true boundary was south of the fences.

The areaway, about four feet long by fourteen inches wide, was put in to afford light to the cellar of the house now owned by the plaintiffs; and, by sec. 37 of the Limitations Act, R.S.O. 1914 ch. 75, no prescriptive right to light could arise.

As to the slight overhang of the cornice and the verandah, the plaintiffs were entitled only to an easement: *Rooney v. Petry* (1910), 22 O.L.R. 101.

Subject to that easement, the boundary-line found by the learned Judge appeared to be the proper line; the judgment should be varied by declaring that the line was subject to the easement; and, with that variation, the appeal should be dismissed, but without costs.

FALCONBRIDGE, C.J.K.B., RIDDELL and KELLY, JJ., agreed in the result.

*Judgment accordingly.*

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MAY 11TH, 1915.

HAYES v. OTTAWA ELECTRIC R.W. CO.

*Street Railway—Death of Person Struck by Car in Attempting to Cross Tracks—Negligence—Contributory Negligence—Ultimate Negligence—Findings of Jury—Appeal.*

Action by the widow and children of John Patrick Hayes to recover damages for his death, caused by his being struck by an electric street railway car of the defendants.

The car was proceeding westerly on the northerly tracks on Somerset street, in the city of Ottawa; as it was crossing Bronson avenue, the deceased stepped off the north-west corner of these two thoroughfares, and proceeded in a south-westerly direction. As he came almost to the car tracks, the rounded portion of the exterior of the car at its front right hand side came in contact with him; he was thrown to the pavement and so injured that he died on the following day.

The action was tried by MULLOCK, C.J.Ex., and a jury, at Ottawa.