that might arise in case a railway company should be guilty of some act of negligence not then apparent. . . . Perhaps it may be suggested that when the car started she should have changed her plans and remained on the car. But was it practicable for her to have done so? The jury negatived such suggestion when they found that she was not guilty of negligence or want of care in alighting as she did. . . . We fail to see how seizing the hand-rail would, under the circumstances here, have enabled her to alight in safety. The jury evidently took this view when they gave a mere speculative guess as to whether taking hold of the hand-rail would have saved her. They do not make a positive finding that it would; but, even had they so found, we are of opinion that such a finding would have to be disregarded, there being no evidence to support the contention that taking hold of the hand-rail would have prevented the accident.

The last act of negligence, according to the jury's finding, was the negligent starting of the car, which was the causa causans, and there is no evidence to shew that, after that negligent act, it was possible for the plaintiff to have done anything to have averted the accident.

Appeal dismissed with costs.

BOYD, C. DECEMBER 16TH, 1909.

RE CARTER.

Will—Construction—Bequest of Residue to Children—Substitution of Grandchildren in Event of Death of Child before Period of Distribution—Estate not Vested in Child—Advance to Child — Grandchild Representing Child — Share Subject to Abatement in Respect of Advance—Moneys of Infant—Payment to Surrogate Guardian—Payment into Court.

Motion by the executors of the will of James North Carter, deceased, for an order determining questions arising in the distribution of the estate.

W. E. Middleton, K.C., for the executors and three beneficiaries.

C. A. Moss, for Mrs. Jennie Irwin.

McGregor Young, K.C., for Mrs. Shannon, mother and guardian of the infant claimant.

F. W. Harcourt, K.C., for the infant claimant, Raymond Stuart Carter.