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NERVOUS SHOCK AS A SUBJECT FOR DAMAGES.

In 1888 the Judicial Committee of the Privy Council decided on an appeal from an Australian Court in the case of *Victorian Railway Commissioners v. Coultas*, 13 App. Cas. 222, 58 L.T. 390, that damages arising from fright occasioned by the negligence of a defendant are not recoverable. The facts of that case were, that through the negligence of a railway company, the plaintiff had been invited to cross their railway where a train was approaching, and had very narrowly escaped being run down by a train of the defendants. The plaintiffs were husband and wife, and the wife was so terrified by the danger she was in, that she fainted and suffered a severe injury to her nervous system and was ill for a long time in consequence thereof. The Colonial Court held that the plaintiffs were entitled to recover damages in respect of the nervous injury thus occasioned, but the Judicial Committee reversed the decision, holding that such damages were too remote. This decision has been somewhat adversely criticized; it was, however, followed in Ontario by the Court of Appeal in *Henderson v. Canada Atlantic Ry.*, 25 A.R. 437, and also by a Divisional Court in *Geiger v. Grand Trunk Ry.*, 10 O.L.R. 511. In the latter case Clute, J., dissented and expressed the opinion that where there had been a physical injury the jury ought not to be asked to assess damages separately in respect of the physical injury, and of the nervous or mental injury, as was done in the *Henderson* case, a task which it would necessarily be difficult for any jury to perform with any degree of accuracy. In the more recent case of *Toms v. Toronto Ry.*, 22 O.L.R. 204, affirmed, 44 S.C.R. 268, the case of *Victorian Railway Commissioners v. Coultas*, *sup.*, was held not to be applicable where there was an actual physical injury, though slight, followed by, or occasioning serious nervous disorder, and the view expressed by Clute, J., as to the assessment