

the negligence of a fellow workman. The accident causing the injury occurred in May, 1894; no notice of the injury had been given within twelve weeks, and the action was not commenced until 1st October, 1895; so that at the time of the passing of chapter 48 of the Statutes of 1895 the plaintiff's right of action for the injury under the Workmen's Compensation for Injuries Act, 56 Vic., c. 39, had ceased to exist by virtue of section 7. By the amendment of 1895, however, this section was repealed and the following substituted therefor:— "No action for the recovery of compensation under this Act shall be maintainable unless commenc-

ed within two years from the occurrence of the accident causing an injury or death."

Held, that this legislation was not retrospective and had not the effect of restoring a right of action which was gone before it was passed.

The plaintiff also claimed that defendants were liable at common law under the principles applied in *Smith v. Baker* [1891], A.C. 325, and *Webster v. Foley*, 21 S.C.R. 580, but the answers of the jury showed no defect in the works or machinery or system of using the same; and the plaintiff was non-suited. *Dixon v. Winnipeg Electric Street Ry Co.* 528