

in the accident. For that time, at the rate of \$8.94 per day, plaintiffs would be entitled to \$295.02.

This, with the above items of \$279.44 and \$147 50, makes a total of \$721.96, the amount to which I think the plaintiffs are entitled.

In making this calculation I have not overlooked the question of interest or of probable depreciation of the truck through wear and tear had it been in service during the 82 days. I may mention, too, in explanation, that it was shewn by the evidence that part of the delay in having the repairs done was due to negotiations for settlement between the plaintiff and the insurers of the truck, but which resulted in no benefit either to the plaintiffs or defendants.

Judgment will be in favour of the plaintiffs for \$721.96 and costs, and dismissing defendants' counterclaim with costs.

MASTER IN CHAMBERS.

APRIL 4TH, 1913.

ANGEVINE v. GOOLD.

4 O. W. N. 1041.

Action — Motion to Dismiss—Want of Prosecution—Admissions of Plaintiff—Con. Rules 616, 217 — Plaintiff Suffering from Senile Dementia—Jurisdiction of Master-in-Chambers—Lis Pendens.

MASTER-IN-CHAMBERS held, that he had no jurisdiction under Con. Rule 616 to dismiss an action upon the admissions of a plaintiff and that in any case as the plaintiff was mentally incompetent he would not have exercised his discretion to dismiss the action.

Jasperson v. Romney, 12 O. W. R. 115, followed.

Motion by defendant to dismiss for want of prosecution, and also under Consolidated Rule 616, on admission of plaintiff in his examination for discovery, or to vacate certificate of *lis pendens*.

Featherston Aylesworth, for the defendant's motion.

J. M. Ferguson, for the plaintiff, contra.

CARTWRIGHT, K.C., MASTER:—This action was commenced on 16th September last. The statement of defence was delivered on 6th December. The action is apparently a non-jury action, and the place of trial is Welland.

There is no default as the non-jury sittings at Welland are fixed for 20th May, when it is said that plaintiff will be able to attend. If this does not prove to be the case