

(1902), 3 O.L.R. 434, nor by any of the cases dealing with the power of the Court where the order provides for the dismissal of the action. There is power, under Rule 176, to grant the relief asked. The defendants should be let in to defend, but it must be on terms fair to the plaintiff. If the defendants pay to the plaintiff's solicitors the taxed costs, amounting to \$70.50, and the costs of entering judgment and of this application, fixed at \$25, a total of \$95.50, on or before the 29th December instant, and if the defendants pay into Court to the credit of this action, as security, the sum of \$1,000, or file a bond for that amount, on or before the 15th January next, the judgment will be set aside, and the action will come on for trial as provided by an order made on the 10th November, 1914. If the defendants fail to comply with these terms, the application will be dismissed with costs. W. J. McWhinney, K.C., for the defendants. H. S. White, for the plaintiff.

TIGHE v. TOWNSHIP OF TYENDINGAGA—MIDDLETON, J.—DEC. 23.

Master and Servant—Injury to Servant—Cause of Injury—Evidence—Fault of Fellow-servant—Notice under Workmen's Compensation for Injuries Act not Given in Time—No Liability at Common Law—Costs.—The plaintiff, a young man of seventeen, sued for damages for injuries said to have been sustained while in the employ of the defendant corporation, drawing gravel for use upon the township roads from a pit owned by one Horrigan. The action was tried without a jury at Belleville. The accident took place on the 13th March, 1914. The suggestion was that, owing to the thawing then going on, some gravel fell, striking the plaintiff upon the back of his head, as he was helping to lift the hind runner of a sleigh which was being backed on to some skids placed upon the ground. This blow, it was said, drove the head of the plaintiff forward and downward, so that his forehead was struck upon the sleigh, a nasty wound being in that way inflicted. That the plaintiff came in contact with the sleigh and so received the wound complained of, says the learned Judge, there can be no doubt. Whether he slipped and fell or whether the gravel struck him, however, was a matter of very much doubt. The plaintiff did not know what happened to him. He said that he became instantly unconscious for a moment or so. He asserted that there was a lump on his head where he was struck by the gravel, and that he found some gravel inside of his short collar. The doctor who attended him