

JONCAS v. CITY OF OTTAWA—BRITTON, J.—APRIL 28.

*Highway—Non-repair—Accumulation of Ice and Snow on Sidewalk—Injury to Pedestrian—Municipal Corporation—Gross Negligence.*]—Action for damages for personal injuries sustained by the plaintiff by reason of a fall upon a sidewalk upon Barrett lane in the city of Ottawa on the 15th December, 1909, owing, as the plaintiff alleged, to the gross negligence of the defendants in allowing an accumulation of snow and ice to remain on the sidewalk in a treacherous condition after knowledge of that condition. The learned trial Judge finds, upon conflicting evidence, that the sidewalk, at the place where and time when the accident occurred, was in a most dangerous condition, and that that condition had existed for some days and long enough to enable the defendants to become aware of it, and their neglect amounted to gross negligence, as defined by Meredith, C.J., in the quotation from his charge made by Sedgewick, J., in *City of Kingston v. Drennan*, 27 S. C. R. 46, at p. 54. Damages assessed at \$600. Judgment for the plaintiff for that sum, with costs. A. Lemieux, for the plaintiff. Taylor McVeity, for the defendants.

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SHUNK v. GENTLES—MASTER IN CHAMBERS—APRIL 29.

*Pleading—Statement of Claim—Omission to Serve—Leave to Proceed—Terms—Security for Costs—Payment of Costs.*]—Motion by the plaintiff to allow delivery of the statement of claim notwithstanding the lapse of more than three months since appearance. The statement of claim was filed in time, on the 2nd September, 1909, but, by mistake and oversight, was not served until the 7th April, 1910. Held, following *Muir v. Guinane*, 10 O. L. R. 367, that the plaintiff must be allowed, upon terms, to proceed with his action, the Statute of Limitations not intervening. It was urged that the plaintiff was now resident out of Ontario, and should be required to give security for costs. The plaintiff went in June, 1909, to the province of Alberta, where he became market clerk of a town and bandmaster. His wife stated that he intended to return shortly. Held, that the plaintiff was not non-resident in any such sense as to oblige him to give security for costs: *Moffat v. Leonard*, 6 O. L. R. 383. It also seemed probable that he had assets in Ontario sufficient to dispense with security, if it could otherwise be required. Order made allowing the plaintiff to proceed upon paying the costs of the motion (fixed at \$30) within six weeks, and undertaking to proceed to trial at as early a date as possible. Finberg (Heyd & Heyd), for the plaintiff. T. D. Delamere, K.C., for the defendant.