

made him incapable, for the time, of considering his situation except as a sufferer, or of taking or suggesting the initiative of any course to be pursued on his recovery. Without saying anything about plaintiff's absence of will power, or metaphysical considerations of that kind, which Mr. Kilmer objected to very much as indicative of an attempt to fritter away the requirements of the statute, I am of opinion that defendants have not shewn any plausible reasons for thinking that the trial Judge and the Divisional Court might not properly hold that the condition to which plaintiff was reduced by his accident was a sufficient excuse for not giving the notice within the statutory time.

I do not see that the decision is opposed, either on the facts or on principle, to anything decided or said by this Court in the O'Connor case, and therefore leave to appeal should be refused.

Costs follow.

CARTWRIGHT, MASTER.

APRIL 18TH, 1906.

CHAMBERS.

McPHEE v. McPHEE AUTOMATIC CO.

*Discovery—Production of Books of Company—Affidavit on
Production—Privilege—Relevancy.*

Motion by plaintiff for an order for inspection of the books of defendant company.

J. W. Bain, for plaintiff.

G. M. Clark, for defendant company.

THE MASTER:—The action is brought to set aside certain assignments of patents, etc., now held by defendant company. Plaintiff alleges that the assignments were made on the faith of representations made by Kelly and Bickell, who afterwards formed the defendant company. Of this company Kelly and Bickell were directors when the assignments were made to the company. Plaintiff asks for inspection of the defendant company's books to establish (if he can) that Kelly and Bickell were directors, and that the promises made by them to him as to his being given