and snow was on the ground. The office in the part used by the public was only a few feet wide, and a few feet beyond the part of the counter where telegrams were handed in there was an open trap door. The deceased entered the office and tapped at the glass partition on the counter for the operator, who replied to the effect that he would come in a minute. The deceased stepped toward the trap-door apparently as if going round the counter, when he fell through the trap-door and injured himself so that death soon resulted. The learned judge, who tried the case without a jury, and who viewed the scene of the accident, was of opinion that deceased, if he had used ordinary care, could have seen the trap, and that he was guilty of contributory negligence, and he found for defendants.

Held by this Court, that there must be a new trial, for, notwithstanding the finding of the learned judge, there was in their opinion no evidence of contributory negligence on deceased's part.

S. Richards, Q.C., for plaintiff.

C. Robinson, Q. C., for defendants.

RE BROWNING v. CORPORATION OF TOWN OF DUNNAS.

Assessment—Omission of name from voters' list—Application to restore—Laches—Mandamus—Costs.

The applicant was duly assessed in the Town of Dundas for $600 income in 1877, and his name appeared on the assessment roll accordingly. The Court of Revision, without notice to him, struck his name out, and his name did not appear in the voters' list which were posted up in August, 1877. Not examining the lists so posted up, he did not discover the omission till October, when he applied promptly to the Clerk of the Town and then to the Judge of the County Court, by summons, to have his name restored. The Judge, after examining the clerk, &c., refused to direct the amendment asked.

A rule *nisi* for a *mandamus* against the County Judge and Town Clerk to restore the name was discharged, the applicant having been too late in his application to the County Judge, and cause having been shewn for the County Judge, the rule was discharged with costs as to him.

Browning, in person.

Walker, for the County Judge.

WHITE v. MCKAY.

Ejectment—Amendment by adding party plaintiff—New trial on affidavits.

In an action of ejectment, where the defendant offered no evidence, a verdict was entered for the plaintiff, with leave to defendant to move on any ground he thought fit. Defendant having taken out a rule to set aside the verdict, on the ground that the plaintiff had not proved his title, and on affidavits disclosing new evidence which tended to show plaintiff was only entitled to a moiety, the plaintiff asked leave to amend, by adding a party plaintiff who was a bare trustee for the original plaintiff, the new party consenting to the amendment.

The Court directed the amendment to be made under sec. 222 of the C. L. P. Act, and secs. 8 and 50 of the A. J. Act of 1873, and discharged the rule on the affidavits, thinking them insufficient to establish the ground they raised.

Kingsmill for plaintiff.

Osler for defendant.

DRIFFILL v. MCFALL.

Verdict reduced to nominal damages—Application for certificate for full costs—Trover.

This cause is reported in 41 U. C. R. 313. There the Court ordered a verdict to be entered for $1,000, but directed that the verdict should be reduced to nominal damages if a note in respect of which the trover was brought were given up. On this being done, a verdict was ordered to be entered, but no application up to the time the rule issued was made for the certificate. In this Term, a rule having been taken out for full casts, the Court intimated that the application, in strictness, should have been made earlier, but as there was no rule or practice, or decision in point, the Court granted the certificate.

Per WILSON, J.—When the Court gives the verdict, the whole proceedings—the verdict at the trial, the motion to the Court, and the verdict given by the Court—should all be entered of record.

McCarthy, Q.C., for plaintiff.

Osler, contra.

CURRIE v. HODGINS.

Principal and surety—Release by giving time.

The plaintiff became the holder of a note not due, made by defendant H. and endorsed by