

entitled to 40 cents per ton as claimed, and that it could not possibly be determined on a summary application; and as, according to the defendants' contention, the plaintiffs had been overpaid, no part of the plaintiffs' claim was admitted. The motion was, therefore, refused, with costs to the defendants in any event. G. W. Walrond, for the plaintiffs. J. F. Boland, for the defendants.

ORTON V. HIGHLAND LUMBER CO.—LENNOX, J.—DEC. 2.

Contract—Manufacturing Lumber—Quantity and Price—Extra Payment or Bonus—Counterclaim—Trespass—Payments—Set-off—Findings of Fact of Trial Judge.]—Action to recover the amount alleged to be due for work done under a contract for getting out lumber for the defendants. The defendants had a counterclaim for money paid for trespass committed by the plaintiff in getting timber and for other matters, and also set up payments and set-off. The chief matter in dispute was the claim to a bonus or extra payment of \$1 per 1,000 feet of lumber. This the learned Judge determined in favour of the plaintiff. After a careful consideration of the evidence, he arrived at the conclusion that the plaintiff was entitled to recover \$1,426.55, with costs. M. B. Tudhope, for the plaintiff. A. E. H. Creswicke, K.C., and A. B. Thompson, for the defendants.

CONNOR V. TOWNSHIP OF BRANT—LENNOX, J.—DEC. 5.

Highway—Nonrepair—Injury to and Death of Person Travelling in Motor Vehicle—Liability of Township Corporation—Evidence—Findings of Fact of Trial Judge.]—Action to recover damages for the death of the plaintiff's husband by reason of the nonrepair of a highway in the township of Brant. The learned Judge found that the highway, at the point in question, was not in such a state of repair as to be reasonably safe and fit for the requirements of that locality; that it had been out of repair for such a length of time that knowledge by the municipality must be implied; that the municipal corporation, through their pathmaster, had actual knowledge of the condition of the road for a sufficient length of time before the accident to enable them to put it in proper repair; that, at the time the automobile