

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

From Falconbridge, C.K.B.]

[June 29.

GRIFFITHS v. HAMILTON ELECTRIC LIGHT CO.

*Evidence—Workman's death without witnesses—Withdrawal from jury—
New trial.*

Plaintiff's son and another labourer were directed to clear up and remove the rubbish caused by their cutting a trench in the concrete floor of an alleyway in the defendant's power house. The alleyway was crossed at right angles with others on each side of which were electric machines and live wires within arm's length of any one working in the trench, one of the latter of which was ruptured perhaps by bending in constant use. The other labourer went into a cross alleyway where the live wires were, although there had been a slat nailed across it when the two were put to work; and was sweeping towards the trench the litter that had been scattered about when he suddenly became unconscious from an electric shock. The bodies of both men were found near a switch-board, plaintiff's son being dead. It was shewn there was a rupture in the insulation of a loose loop or cable hanging from the switch-board directly over where the survivor was lying and that the insulation of the wires was with respect to the voltage passing, insufficient for the safety of anyone working among them, and that the hanging loop might easily have been better guarded than it was.

Held, that there was evidence which could not be properly withdrawn from the jury and a new trial was ordered.

Judgment of FALCONBRIDGE, C.J.K.B., reversed.

Lynch Staunton, K.C., for the appeal. *Brennan*, contra.

From Lount, J.]

SKILLINGS v. ROYAL INSURANCE CO.

[Sept. 14.

insurance—Fire insurance—Cancellation—Notice of cancellation received after loss.

Per MACLENNAN, J.A., an actual delivery of notice was what was intended by statutory condition 19 (a) R.S.O. 1897, c. 203, s. 168, and s. 43 of the Postal Act R.S.C. 1886, c. 35, was not intended to alter the actual rights of the sender and the person addressed, as between themselves.

Per GARROW, J.A., the notice may be recalled at any time before it reaches its statutory home by direct or indirect interference on the part of