involved; and it is quite probable that the jury, although they have not said so, intended to find the appellant guilty of the negligence with which, in my opinion, it is chargeable. The case is, therefore, one in which it is proper that the powers conferred by sub-sec. 2 of sec. 27 should be exercised.

I would, therefore, set aside the finding of the jury in answer to the fourth question, and find the facts as I have indicated, and give judgment for the respondent for the amount of the damages assessed by the jury, with costs; and there should be no costs of the appeal to either party.

JANUARY 26TH, 1914.

McINTOSH v. COUNTY OF SIMCOE AND TOWNSHIP OF SUNNIDALE.

Negligence — Highway — Construction of Sidewalk — Use of "Mixer"—Frightening Horse—Loss of Horse—Liability of Municipal Corporation—Object Likely to Cause Danger—Knowledge of Corporation—Independent Contractor.

Appeal by the plaintiff from the judgment of the Junior Judge of the County Court of the County of Simcoe, who tried the action in that Court without a jury, in so far as the judgment dismissed the action as against the defendant the Corporation of the Township of Sunnidale—the action having also been dismissed as against the other defendant, the county corporation.

The appeal was heard by MEREDITH, C.J.O., MACLAREN and MAGEE, JJ.A., and LENNOX, J.

W. A. Boys, K.C., for the appellant.

A. E. H. Creswicke, K.C., for the Corporation of the Township of Sunnidale, the respondent.

The judgment of the Court was delivered by MEREDITH, C.J.O.:—The claim of the appellant is, that his horse was injured owing to the presence on the highway on which it was being driven of a cement mixer which was being used for mixing cement to be used in the construction of a sidewalk; that the cement mixer was a thing calculated to frighten horses, and that it frightened the appellant's horse, causing it to run away and to be seriously injured by coming into contact with a plough which was lying upon the highway.