happened, the subsequent lapse of time would be unimportant, except, perhaps, in so far as it might be an element in the determination of the question whether defendants had been prejudiced in their defence by the omission to give the notice within the time prescribed. It does not appear that there was here any prejudice of that kind.

Defendants relied upon . . . O'Connor v. City of Hamilton, 10 O. L. R. 536, 6 O. W. R. 227, contending that the judgment of the Divisional Court in this case was directly opposed to it. If that were so, no doubt, leave to appeal ought to be given. One of the Judges in the Divisional Court whose judgment in the O'Connor case was reversed by the judgment of this Court, does indeed say (7 O. W. R. at p. 552) that the finding of the trial Judge in this case that there was reasonable excuse should, "notwithstanding the ultimate decision in the O'Connor case, be sustained;" but, unless the judgment of the Court proceeded on that ground, I need not attach too much weight to the expression, and leave to appeal ought not to be given, unless, having regard to all the opinions for judgment in the Court below, there is reason to say that upon the facts of the case the discretion of the trial Judge and of the Divisional Court was wrongly exercised. . .

What may be a reasonable excuse for not giving notice depends very much upon the circumstances of each particular case. . . .

In the present case the facts are very fully set forth in the judgment of Mulock, C.J., and, taking the whole of plaintiff's evidence together, and not resting upon isolated answers, I think the case a very different one from the case referred to, and that it was properly distinguished from it on the facts. Besides the shock occasioned by his fall and slight injuries to other parts of his body, plaintiff sustained an injury to his head of a very severe character, which for the first fortnight, and a fortiori for the first week, after its occurrence, may fairly be said to have prevented him from thinking, if he thought at all, of anything but his own condition as a sufferer. It may be assumed against him, as the Chief Justice says, and ought to be assumed, that he was not ignorant of the law, and that if he had remembered or had been told that notice of the accident ought to be given at once, he would have been able to direct a friend to give it for him. But, upon the evidence, I think it was open to the trial Judge to hold that his injuries had