

use of dynamite and other explosives—and the persons in the employ of the defendants under whose orders and direction the plaintiff was working, had no reason to think otherwise.

The plaintiff was ordered to do this work of blasting, and in doing it he was injured, by a premature explosion of dynamite, to such an extent as to lose the sight of both eyes. He was rendered totally and permanently blind. Questions in reference to negligence of defendants were submitted to the jury, and the answers, if warranted by the evidence, entitle the plaintiff to the damages assessed, unless the plaintiff's remedy is barred by reason of his not having given the notice in respect of his injury as required by secs. 9 and 13 of "The Workmen's Compensation for Injuries Act." No notice within the time was served upon these defendants. The accident occurred on the 16th of January, 1912. The plaintiff was at once thereafter brought to the Toronto General Hospital, where he remained for a considerable time under treatment. He is a foreigner, and did make it his home at the village of Cutler. Cutler is the chief place of business of Lovelace and Stone. Their large mill is there. They have many men in their employ, and they are reputed owners of extensive timber limits. The plaintiff not knowing personally the proprietors, of either the Lovelace and Stone or the defendants' business, thought he was in the employ of Lovelace and Stone, and made the mistake of so instructing his solicitors. That was a mistake of fact—not of law. The plaintiff's solicitors served the notice upon Lovelace and Stone, on the 30th March, 1912. On the 6th May, 1912, a writ was issued in due course against Lovelace and Stone, and it was not until after that date that the mistake was discovered, and it was then more than 12 weeks from time of accident. On the 2nd July, the plaintiff commenced this action against the defendants, who were the employers of plaintiff.

The defendants in their statement of defence do not allege want of notice, but on the 28th September, pursuant to sec. 14, caused to be served upon the plaintiff's solicitors the notice of their intention to rely upon want of notice of injury as a defence to this action. The defendants' road foreman was well aware of the accident and injury, and all particulars. He was present at the time. All who knew anything connected with the plaintiff's employment—or who knew of the instructions given by, and of the supervision