by probabilities, and, although upon one or two subordinate details it differed from his letter, was satisfactory and convincing. Judgment for the plaintiff for $2,072, with interest thereon at 7 per cent. per annum from the 18th April, 1914, for the period of three months, and thereafter at 5 per cent., with costs against the defendant Rochester. G. F. Henderson, K.C., for the plaintiff. R. A. Pringle, K.C., for the defendant Rochester.

BALLANTYNE v. T. J. EANSOR & CO.—LENNOX, J.—APRIL 17.

Master and Servant—Injury to Servant—Negligence—Findings of Jury—Evidence — Incompetence of Fellow-servant — Common Employment.]—Action for damages for injuries sustained by the plaintiff while in the employment of the defendants in their works. The action was tried with a jury at Sandwich. LENNOX, J., said that the plaintiff undoubtedly sustained serious injury, and his conduct after the accident shewed that he was not looking for trouble. The merits were pretty clearly with the plaintiff. The jury found that the defendants were negligent, and it was quite open to them to have specified negligence of a class which would have entitled the plaintiff to judgment. It was, however, a matter for them to say whether there was any defect in the ways, works, machinery, or plant of the defendants occasioning the plaintiff's injuries. Their attention was distinctly directed to consideration of this view of the action, and by their answer to the second question they must be taken to have negatived this suggestion. The negligence they assigned was, "By having an unskilled labourer in charge of the gun." The action could not be supported upon this finding. Rhea, the person referred to, was a fellow-labourer, more skilled and experienced than the plaintiff, but not a person in superintendence; he had no power to give orders, and was not in any sense a person in charge or control. There was a competent foreman in full charge of this part of the works, and he was in the immediate neighbourhood when the accident occurred. The plaintiff is not entitled to judgment, first, because there was no evidence that Rhea was incompetent or "unskilled"—if want of skill could be taken as equivalent to negligence—and, secondly, by reason of the doctrine of common employment. Judgment dismissing the action, and, as the defendants in the circumstances should not ask for costs, without costs. O. E. Fleming, K.C., for the plaintiff. T. Mercer Morton, for the defendants.