render it impossible to find that any injuries sustained by plaintiff have been caused by defendants, even had they exceeded the powers conferred by R. S. O. 1897 ch. 142, sec. 1, of which I find no satisfactory evidence: Neely v. Peter, 4 O. L. R. at p. 296.

Moreover, I am by no means satisfied with plaintiff's explanation of the receipt which he gave to defendants in April, 1905, acknowledging payment of $10 in full of all claims on account of flooding from the dam.

Plaintiff, in my opinion, has failed to establish a cause of action against defendants, and his action must, therefore, be dismissed with costs.

OSLER, J.A. APRIL 17TH, 1906.

C.A.—CHAMBERS.

MORRISON v. CITY OF TORONTO.

Leave to Appeal—Action against Municipal Corporation for Non-repair of Highway—Notice of Accident—Reasonable Excuse for not Giving—Grounds for Leave—Previous Decision.

Motion by defendants for leave to appeal from order of a Divisional Court, ante 547, affirming judgment for plaintiff at trial for $750.

G. H. Kilmer, for defendants.

Z. Gallagher, for plaintiff.

OSLER, J.A.:—The only question is, whether the trial Judge and the Divisional Court were right in holding that there was reasonable excuse for not having given notice in writing of the accident and the cause thereof within 7 days after the happening thereof, as required by sec. 606 (3) of the Consolidated Municipal Act, 1903.

The accident happened on 14th November, 1904. No notice in writing was given until 31st January, 1905; but, if a reasonable excuse existed within the first 7 days after it