negligence in that respect when it is actionable consists in allowing them to remain an unreasonable time in an unsafe condition.

A. E. Fripp, for suppliant. *E. L. Newcombe*, Q.C., for respondent.

Province of Ontario.

COURT OF APPEAL.

Moss, J.A.] [March 30.

WINDSOR FAIR GROUNDS, &c., ASSOCIATION *v.* HIGHLAND PARK CLUB.

Parties—Third party notice—Agreement—Rule 209—Appearance—Leave to appeal.

Leave to appeal from an order of a Divisional Court, ante 165, setting aside a third party notice, was refused by a judge of the Court of Appeal in Chambers.

Held, that the Divisional Court had not placed a construction of general application upon the words "or any other relief over" in Rule 209, but had merely decided their bearing upon the facts of this case, which were of a nature not likely to be of common occurrence; there was nothing special in the case beyond the fact that a Divisional Court of three judges had differed from the view of another judge of the High Court and of a local judge; and the amount involved was comparatively small.

Moreover, the decision of the Divisional Court did not deprive the defendants of the benefit of the alleged dealings with the proposed third parties as a defence to the plaintiffs' action, and if the defence should be successful there would be no occasion for seeking relief over.

Semble, that even if leave to appeal were granted, it would not be on technical grounds, but only on the construction of the rule.

F. A. Anglin, for defendants. *Aylesworth*, Q.C., for proposed third parties.

HIGH COURT OF JUSTICE.

Divisional Court.] REEKIE *v.* MCNEIL. [Dec. 18, 1899.

County Courts—Appeal—Inability of courts to extend time limited—Striking out appeal.

The provisions of ss. 55 and 56 of the County Courts Act, limiting the time in which an appeal from the County Court to the Divisional Court must be set down is peremptory and there is no power to dispense with such provisions, or to enlarge the time for setting down the appeal.