

and the date of the trial of the action. The learned Judge said that the order should not have been made. The plaintiff company was an extra-provincial corporation, within the meaning and subject to the provisions of secs. 4, 7, 9, and 16 of the Extra-Provincial Corporations Act, R.S.O. 1914 ch. 179. At the time of the motion and appeal, the plaintiff company had not obtained a license to do business in the Province of Ontario, as required by sec. 4, and was not entitled to maintain an action in any Court in Ontario. Upon the argument of the appeal, it was stated that an application for a license had been made and was pending; and it appeared now that an order in council was passed on the 26th October instant, directing the issue of a license to bear date as of that day. Sub-section 2 of sec. 16 provides that upon the granting of a license a pending action may be prosecuted as if the license had been granted before the action was instituted. Order of Local Judge set aside, and order made staying proceedings until an affidavit is filed proving the granting of the license, together with an office copy of the license, verified by the affidavit, or until a certificate from the office at the Provincial Secretary shewing the issue of the license, is filed; directing that upon proof of the issue of a license in the manner mentioned, the plaintiff company shall have the right to prosecute the action; allowing the defendants 10 days within which to deliver their statement of defence, after service of notice by the plaintiff company of proof of the grant of a license in the manner mentioned, and allowing the defendants, in addition to other defences, to set up any defence they may be advised founded upon or arising out of the statute. Costs of the motion and of the appeal to be costs to the defendants in any event. G. H. Sedgewick, for the defendants. H. S. White, for the plaintiff company.

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WILKINSON V. HAYES—LENNOX, J., IN CHAMBERS—OCT. 28.

*Trial—Action for Malpractice and Assault—Motion to Strike out Jury Notice—Rule 398—Discretion of Judge in Chambers—Motion Adjourned before Trial Judge.*—Application by the defendant, under Rule 398, to strike out the plaintiff's jury notice, in an action against a physician and surgeon for malpractice and assault. Upon the argument, counsel for the plaintiff offered to abandon such parts of the statement of claim as alleged malpractice and to confine the action to a claim for