

1908, sec. 164, sub-secs. 17 and 31. The jury found that the defendants were negligent in not providing a suitable "pentice" over the manhole, for the protection of workmen in the shaft in which the plaintiff was injured, as required by sub-sec. 17 above referred to. The argument of counsel was mainly directed to the definition of the term "pentice," the defendants claiming that it meant a structure in the shaft itself, or at its mouth, between the men working in the shaft and the level from which danger is to be expected, and supporting this view by quotations shewing the use of this word, or its later form, "pent-house," in this sense. The plaintiff, on the other hand, urged that the wording of sub-sec. 17 of sec. 164 of the Act was quite broad enough to cover the facts in this case, as it does not say where the pentice shall be provided, but leaves this to the common sense of the company, which should have made them place it, as the jury have found, over the manhole, and it is not required by the sub-section in question that it must be in the shaft. The learned Chief Justice, after considering written arguments of counsel for the parties, gave judgment for the plaintiff for \$2,500 and costs, as follows: "The plaintiff proved, and the jury found failure by the defendants to comply with sub-secs. 17 and 31 of sec. 164 of the Mining Act of Ontario. I do not consider myself bound to accept the defendants' definition of a "pentice" as a covering erected within the shaft itself or at its mouth. To the quotations in the defendants' argument, I add:

"Sleep shall neither night nor day
Hang upon his pent-house lid."
(Macbeth, Act i., sc. iii.)

"pent-house lid," *i.e.*, eye-lid—a projection or lean-to attached to the wall of the face." A. G. Slaght, and G. T. Ware, for the plaintiff. M. K. Cowan, K.C., and G. H. Sedgewick for the defendants.

NORTHERN CROWN BANK V. MOLSON—MASTER IN CHAMBERS—
MAY 27.

Practice—Pleading—Parties—Motion by Defendant to Dismiss for Want of Prosecution—Motion by Plaintiffs to Add Defendant—Plaintiffs' Motion Granted on Terms—Amendment Before Trial—Costs.—The defendant moved to dismiss for want of prosecution, while the plaintiffs asked leave to