

The notice was a letter written by the plaintiff's solicitor to the city corporation, on the day of the injury, as follows: "I am instructed by Messrs. Kuusisto & Sunberg to claim damages from you for the smashing of their automobile by car number 46 on Cumberland street north this morning. I am writing you at this early date so that you may have notice of the claim to be in a position to institute the necessary inquiries." On the 17th June, the defendants' Commissioner of Utilities answered: "We have had a report of this from the street railway department and find that there was no negligence on the part of the employees, and therefore cannot consider your claim."

The learned Judge said that the notice was sufficient under the statute, if notice were necessary.

The accident occurred on the 3rd June, 1914, and this action was begun on the 24th April, 1915. The defendants contended that the action was barred by sec. 460 (2) of the Municipal Act, R.S.O. 1914 ch. 192; or by sec. 29 of the Public Utilities Act, R.S.O. 1914 ch. 204; or by sec. 13 of the Public Authorities Protection Act, R.S.O. 1914 ch. 89—because not brought within three or six months from the time of the injury.

The plaintiff contended that these statutes had no application; and that the case was governed by the Ontario Railway Act, R.S.O. 1914 ch. 185, sec. 265, which allows a year for the commencement of the action.

Reference to *Glynn v. City of Niagara Falls* (1913-4), 29 O.L.R. 517, 31 O.L.R. 1; *Parker v. London County Council*, [1904] 2 K.B. 501; *The Ydun*, [1899] P. 236; *Lyles v. Southend-on-Sea Corporation*, [1905] 2 K.B. 1; *Fielding v. Morley Corporation*, [1899] 1 Ch. 1.; *Jeremiah Ambler & Sons Limited v. Bradford Corporation*, [1902] 2 Ch. 585, 594; *Attorney-General v. Margate Pier and Harbour Co.*, [1900] 1 Ch. 749, 752; *Milford Docks Co. v. Milford Haven Urban District Council* (1901), 65 J.P. 483, 484; *The Johannesburg*, [1907] P. 65, 72.

The learned Judge said that no one of the three statutory provisions relied on by the defendants was applicable.

In constructing the road, a nuisance, which had continued ever since, was created; and this action, being for damages for the injury sustained by reason of the improper construction and operation of the railway, fell expressly within sec. 265 of the Railway Act.

The title of an Act of Parliament is now to be read as forming part of it, as shewn by some of the cases above-cited.

Judgment for the plaintiff for \$650 with costs.