

HON. MR. JUSTICE MIDDLETON.

DECEMBER 22ND, 1913.

TILL v. OAKVILLE.

HARKER v. OAKVILLE.

5 O. W. N. 601.

Appeal—Leave Refused—No Doubt as to Correctness of Judgment.

MIDDLETON, J., refused the Bell Telephone Co. leave to appeal to Appellate Division of Ont. Sup. Ct. from order in Chambers, of LENNOX, J., 25 O. W. R. 476, 507, expressing the opinion that that judgment was correct.

Motion, by the defendants the Bell Telephone Co., in the first action and third parties in the second action, for leave to appeal from the order of HON. MR. JUSTICE LENNOX, (25 O. W. R. 476, 507), dismissing an appeal from the order of the Master-in-Ordinary, acting as Master-in-Chambers, refusing to strike out the telephone company as party defendant in the first action and refusing to set aside the third party notice in the second action. The motion was heard on 19th December, 1913.

A. W. Anglin, K. C., for the Bell Telephone Co.

D. I. Grant, for Oakville.

M. H. Ludwig, for Till.

No one appeared for Harker.

HON. MR. JUSTICE MIDDLETON:—The facts are sufficiently set forth in the judgments below. Shortly, they are that the municipal corporation has erected for the purpose of supplying lighting current to its customers, high tension and low tension wires on the streets. In some way the high tension electricity was discharged through the low tension wires; and on the 11th April, Till, represented by the plaintiffs in the first action, was electrocuted, and on the 13th, Harker, represented by the plaintiffs in the second action, was also electrocuted. The way in which this discharge of the dangerous current was brought about is difficult of ascertainment and perhaps not yet known. It is suggested that the Bell Telephone Co. or its employees brought about a condition of affairs resulting in the escape of the electricity and the consequent deaths of these two men.