

REPORTS AND NOTES OF CASES

Dominion of Canada.

SUPREME COURT.

Quebec.] CITIZENS' LIGHT & POWER CO. v. LEPITRE. [Oct. 6.

Negligence—Insulation of electric wires—Cause of death.

The deceased was employed as a lineman by the company, and at the time of the accident was at his work passing a wire along the ceiling of the cellar of the power house in close proximity to a large number of wires charged with a strong electric current. There was some evidence to show a possibility of imperfect insulation of the live wires, as the ends of the tie-wires by which they were attached to porcelain insulating knobs were left bare instead of being covered with insulating tapes. The witnesses declared that it was not usual to cover the ends of tie-wires in this manner, but that if such precautions had been taken the possibility of accident through coming in contact with live wires would have been decreased. The deceased was not seen to come in contact with the tie-wires, but was found dead on the floor, where he had been working, with a wound on his arm, as from a burn, and one of his shoes burnt and broken in the sole. The trial judge found that the cause of the injury might reasonably be attributed to the tie-wires being left uncovered, and rendered a verdict against the company on the ground that the presumption of fault had not been rebutted, and it had not been shown that deceased had been guilty of any imprudence which might have caused him to receive an electric shock.

Held, that there was sufficient evidence to sustain the findings of the trial judge, as it appeared that an obvious precaution for the prevention of accidents by live wires had been neglected by the company, whose duty it was to take the utmost care for the prevention of injury being caused by the dangerous material with which they were dealing. Appeal dismissed with costs.

Allan, for appellant. *Desmarais* and *Belcourt*, for respondent.

Quebec.] VIAU v. THE QUEEN. [Oct. 13.

Appeal—Jurisdiction—Supreme Court—Criminal law—New trial—Criminal code, 1892, ss. 742-750, 55 & 56 Vict., c. 29, s. 742.

An appeal to the Supreme Court of Canada does not lie in cases where a new trial has been granted by the Court of Appeal under the provisions of the criminal code, 1892, s.s. 742 to 750, inclusive.

The word "opinion" as used in the s. 742, s.s. 2 of the criminal code, 1892, must be construed as meaning a decision or judgment of the Court of Appeal in criminal cases.

Cannon, Q.C., for Crown. *Poirier*, for prisoner.