

against the first mortgage, was bound to pay it, and was not entitled to an assignment thereof unless he took, at the same time, an assignment of the second mortgage.

E. D. Armour, Q.C., and G. H. Kilmer for the appellant.
W. Mortimer Clark, Q.C., for the respondents.

LEWIS v. ALEXANDER.

From MEREDITH, J.]

[Nov. 11.]

Municipal corporations—Drains—Nuisance.

Where territory is added to a city, and the city thereupon recognizes the existence of drains or sewers in the added territory, and by health by-laws directs that these drains or sewers are to be used, the city is liable in damages to the owner of property upon whose lands sewage is, by means of these drains or sewers, discharged, and persons who have used the drains or sewers before the territory was added to the city, and have continued to use them after that time, are not so liable.

Judgment of MEREDITH, J., reversed, BURTON, J.A., dissenting.
Gibbons, Q.C., and E. R. Cameron for the appellants.
M. D. Fraser for the respondents.

BABCOCK v. FREEMAN.

From Chy. Div.]

[Nov. 11.]

Negligence—Damages—Evidence—Nonsuit.

Where a workman was killed by the explosion of a tank in which refuse was being boiled into soap, and there was no evidence as to the cause of the explosion, evidence of experts who had examined the tank, stating that the explosion was probably due to defects in the screws fastening the tank cover, was held sufficient to justify the submission of the case to the jury.

Judgment of the Chancery Division affirmed.
W. Nesbitt and A. Monro Grier for the appellants.
G. Lynch-Staunton for the respondent.

From ROBERTSON, J.]

[Nov. 11.]

IN RE WILSON AND THE COUNTY OF ELGIN.

High schools—Alteration of districts, 54 Vict., c. 57, s. 6 (O.)—57 Vict., c. 58, s. 1 (O.).

Under section 6 of the High Schools Act, 54 Vict., c. 57 (O.), as amended by 57 Vict., c. 58, s. 1 (O.), a county council has power to detach a township from a High school district without the consent of that township or of the other townships included in the High school district in question.

Judgment of ROBERTSON, J., affirmed, OSLER, J.A., dissenting.
N. Macdonald and W. J. Tremear for the appellant.
J. M. Glenn for the respondents.