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DECISIONS IN COMMERCIAL LAW

CANADA PAINT COMPANY V. TRAINOR.
—One Emma Trainor, who was employ-
ed by the company, at work on a print-
ing press, received injury from the plant.
No one saw the accident, and the girl
herself could only tell how she thought it
had occurred. Witnesses were brought
in to support this account of the prob-
able cause. The Supreme Court held
that evidence which merely supports a
theory as to the probable cause of in-
juries received through an unexplained
accident, is insufficient to support a
verdict for damages, where there is no
direct fault or negligence, proved against
the defendant, and the actual cause of the
accident is purely a matter of specula-
tion.

CITY OF MONTREAL V. MULCAIR.—In
respect of an action brought by the city of
Montreal against Mulcair for the recovery
of special assessments in connection with
the widening of a street, and to charge
the defendant's land for payment of the
same, the latter claimed damages against
the city for negligence and misfeasance in
knowingly allowing a building to be con-
structed on land adjoining defendant's
property, so as to project about
ten or twelve inches beyond the
street line, and obstruct the view
of his shop window. The objection-
able building had been put up before the
defendant's, but it appears that the mis-
take in building over the street line had
been made by an error of a city surveyor,
and that the city refused to allow the
defendant to build on this false line. The
Superior Court, District of Montreal, al-
lowed Mulcair the sum of \$251.52, with
costs, in compensation. On appeal the
Supreme Court of Canada reversed this
judgment, holding that "an action does
not lie against a municipal corporation
for damages in respect of mere non-feas-
ance, unless there has been a breach of
some duty imposed by law upon the cor-
poration."

BURLAND AND LEE.—This case, which
came before the Supreme Court of
Canada by way of appeal from the Court
of Queen's Bench for Lower Canada,
belongs to the long list of accident suits
which have recently been before the
courts. Lee was in the employment of
Burland, and engaged in the operation of
an embossing and stamping press. He
received an accident while at work, which
resulted in the amputation of his hand.
The facts were these: The whole of the
employee's hand was under the machine.
This was unnecessary, as to perform the
operation, the hand needed to be inserted
only to the knuckle. The press was go-
ing at a high speed, but this, it was
proven, was by act of Lee himself, who
was a skilled workman. The Queen's
Bench allowed the plaintiff \$3,000 dam-
ages and costs. This the Supreme Court
reverses, holding "that the injury occurred
by a mere accident, not due to any neg-
ligence of the employer," and the em-
ployer was not liable. At the time of an
accident we would strongly advise manu-
facturers to carefully collect all facts in
connection with it.

JOHN MACKAY

Public Accountant, Auditor, Receiver
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