It is, perhaps, not unlike the case of members of benevolent societies whose position when asking the Court to interfere I considered in Zilliax v. Independent Order of Foresters, 8 O. W. R. 631, 13 O. L. R. 155, and Re Errington v. Court Douglas, 9 O. W. R. 675.

The applicant should have no costs of the motion, but, as the municipality should not have passed the by-law in question, I give no costs against him.

The by-law having been repealed, there will be no order on this application.

TEETZEL, J. JULY 3RD, 1907.

TRIAL.

PRUE v. TOWN OF BROCKVILLE.

Negligence—Electrical Appliances—Injury to Person Using Highway—Municipal Corporation Operating Electric Light Plant under Statutory Authority—Spike on Post Charged with Electricity—Failure of Person Injured to Prove Negligence.

Action to recover damages for a shock and severe burns sustained by plaintiff by accidentally touching an iron spike driven into an electric light pole belonging to defendants, about 6 feet from the ground, which spike was used to attach a chain for lowering and raising a lamp.

J. Deacon, Brockville, for plaintiff.

J. A. Hutcheson, K. C., for defendants.

TEETZEL, J.:—At the close of the trial I expressed the view that I could not, upon the evidence, find defendants guilty of any negligence, and after further consideration of the evidence, I am unable to change my opinion. It is true that there was no satisfactory evidence to account for the escape of the electric current down the pole and into the spike, but I am unable to find that there was any defect in the insulation, or other apparatus, or that the plant and appliances were not of the most modern and approved type.