

of the plaintiff's goods, attributable, as he alleged, to the failure of the water supply on the occasion of a fire which occurred in the premises occupied by him.

The action was tried without a jury at London.
P. H. Bartlett and F. E. Perrin, for the plaintiff.
T. G. Meredith, K.C., for the defendants.

ROSE, J., in a written judgment, said that the plaintiff's premises were in Pottersburg, a part of the Township of London annexed to the City of London by an order of the Ontario Railway and Municipal Board made on the 19th December, 1912.

The order directed that the annexation should take effect upon and subject to certain terms and conditions, of which the following was one:—

"That it shall be the duty of the Water Commissioners for the City of London to cause to be laid water-mains for fire and domestic purposes, and to extend the street lighting system of the said city upon such streets and portions of streets within such limit or limits of the annexed district as will, in their opinion, adequately protect and meet the requirements of the property of the said annexed district."

The water-mains were laid, and no question as to their sufficiency was raised; but it was alleged that the defendants were responsible to the plaintiff for the absence of pressure at the outbreak of the fire.

The fire broke out about 1.30 a.m. on the 5th February, 1918. The weather at the time was, and had been for some days previously, exceedingly cold.

The plaintiff's theory was that if there had been pressure at the hydrants when the firemen, who came with admirable promptness, arrived on the scene, the fire would have been confined to the building in which it originated and would not have damaged his goods. There was evidence to support this theory, but the fact was not established.

The claim against the Public Utilities Commission was put in two alternative ways: (1) that there was negligence; and (2) that the order of the Board imposed upon those defendants an absolute duty to maintain at all times a water supply adequate for the protection of the buildings in Pottersburg against fire.

There was no negligence. The shutting off of the supply in order to accumulate an adequate reserve was necessary in the interest of the whole city; and the valve was opened and the pumps started as promptly as possible upon receipt of information from the firemen that the water was required.