

dangerous condition—a condition created by the erection of the telephone pole. The township did not place the pole there—but the members of the council knew it was there. Even if express notice or knowledge could not be established—the pole was there for so long a time that notice and knowledge would be implied. That liability is for non-repair—not a liability for the act itself of placing the pole on the highway. The liability being for nonfeasance—the limitation of 3 months as the time within which an action must be brought bars any recovery by plaintiff. For these reasons and for reasons given by the learned Judge from whose decision this appeal is taken—the appeal must be dismissed and with costs if demanded.

HON. MR. JUSTICE RIDDELL:—I would dismiss the appeal with costs on the short ground that the case stated does not contain any allegation of any act or omission of the defendants which resulted in or allowed the erection of the offending pole. I attach the whole case (Here attach the case).

It will be seen that there is no permission to erect any pole on the highway—all that may be meant may be permission to string the wires across the highways out of all danger.

If there is any fact which has not been brought to the attention of the Court, that is no fault of ours: we have no right to go beyond the case as stated.

I would dismiss the appeal with costs.

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HON. MR. JUSTICE KELLY.

JULY 15TH, 1912.

GUNDY v. JOHNSTON.

3 O. W. N. 1601.

*Judgment—Summary—Con. Rule 603—Action by Solicitors for Costs—2 Geo. V. c. 125, s. 6—Sum Fixed as Solicitor and Client Costs—Solicitor's Lien—Taxation of Costs—Defence.*

KELLY, J., set aside order of local Judge at Chatham, awarding plaintiff summary judgment on a claim for certain solicitor and client costs.

Costs reserved for disposition at trial.

An application by way of appeal from the judgment or order of the Local Judge at Chatham, dated 6th July, 1912, whereby the plaintiffs were awarded summary judgment