After making these findings of fact, the learned Judge expressed the opinion that the sand-heap constituted, as regards persons lawfully using the roadway, a dangerous nuisance, and that the defendants who placed it and left it there were liable for the injury to the plaintiff's vehicle. It was not obligatory on the plaintiff to have his head-lights operating at the time. If they had been lighted, the accident might not have occurred; but the undoubted occasion of the accident was the negligence of the defendants in placing the unlawful obstruction on the highway.

It was the defendants Evans and Oram who caused the sand to be placed on the highway and who allowed it to remain there, and they were liable.

The defendant Galloway, the principal contractor, was not liable, for he had no control over the sub-contractors, and the work of depositing the sand was only of a casual and collateral character. Upon this point, reference was made to Ballentine v. Ontario Pipe Line Co. (1908), 16 O.L.R. 654; Longmore v. J. D. McArthur Co. (1910), 43 S.C.R. 640; Waller v. Town of Sarnia (1913), 4 O.W.N. 890, and other cases there cited.

Action dismissed as against all the defendants except Evans and Oram.

As against those defendants, the plaintiff's damages were assessed at $400, and judgment was given for the plaintiff for that sum, with costs on the County Court scale.

Costs of the defendant city corporation, fixed at $20, to be paid by the plaintiff.

Costs of the defendants Campbell and the Cadwell company, fixed at $25 for each defendant, to be paid by the plaintiff.

Costs of the defendant Galloway, fixed at $60, to be paid by the plaintiff.

The defendants Oram and Evans to be entitled to deduct from the costs payable by them to the plaintiff the sum of $50 for their additional costs occasioned by being brought into the Supreme Court.