

ment of the Divisional Court reversing that of ANGLIN, J., restored.

*Battle*, for appellant. *Collier*, K.C., and *Griffiths*, for respondent.

Que.]

MEIGHEN v. PACAUD.

[May 5.

*Title to land—Construction of deed—Easement appurtenant—Use of lane in common with others—Overhanging fire-escape—Encroachment on space over lane—Trespass—Right of action.*

A grant of the right to use a lane in rear of city lots "in common with others," as an easement appurtenant to the land conveyed, entitled the purchaser to make any reasonable use not only of the surface but also of the space over the lane. The construction of a fire-escape, three feet wide, with its lower end 17 feet above the ground (in compliance with municipal regulations), is not an unreasonable use, nor inconsistent with the use of the lane in common by others; consequently, its removal should not be decreed at the suit of the owner of the land across which the lane has been opened. Judgment appealed from affirmed, MACLENNAN, J., dissenting.

*Campbell*, K.C., and *Brosseau*, K.C., for appellant. *Mignault*, K.C., and *Beullac*, for respondent.

Que.]

[May 5.

QUEBEC RAILWAY, LIGHT AND POWER CO. v. FORTIN.

*Negligence—Master and servant—Scope of employment—Insulation of electric wires—Onus of proof.*

An electric line foreman in the company's employ, met his death from contact with imperfectly insulated live wires while at his work in proximity to them in the power-house. From the evidence, it was left in doubt whether the duties of deceased included the inspection and care of the wires both inside and outside of the power-house, there being no positive evidence to shew that he had been engaged to perform the duties in question except as to the wires outside the power-house walls.

*Held*, that the onus of proof as to the point in dispute was on the defendants, and such onus not having been satisfied, they were liable in damages. Appeal dismissed with costs.

*Stuart*, K.C., for appellants. *Alleyne Taschereau*, for respondent.