

such user, which could have resulted in the wire being touched by any one. . . .

[Harrold v. Watney, [1898] 2 Q. B. 320, distinguished. Reference also to Lynch v. Nurdin, 1 Q. B. 29; Binks v. South Yorkshire R. W. Co., 3 B. & S. 244; Macdowall v. Great Western R. W. Co., [1903] 2 K. B. 331; Smith v. Hayes, 29 O. R. 283; Newell v. Canadian Pacific R. W. Co., 7 O. W. R. 771; Hughes v. Macfie, 2 H. & C. 744.]

There being, then, no evidence that the defendant company ought reasonably to have anticipated that any one—children or others—using the highway, would have interfered with their wire, and no evidence of the neglect of any duty on their part to the public, it appears to me that the action fails and that the appeal must be allowed.

JUNE 16TH, 1906.

C. A.

GREIG v. MACDONALD.

Partnership — Dissolution — Claims against Withdrawing Partner—Moneys of Firm Used for Private Purposes—Sale of Interest without Deduction—Construction of Agreement—Reformation—Fraud.

Appeal by defendant from the order of a Divisional Court (6 O. W. R. 342) reversing the judgment of BRITTON, J. (5 O. W. R. 80), so far as it was in favour of defendant, and awarding judgment in favour of plaintiffs for \$321.51.

The appeal was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, JJ.A.

George Kerr and Joseph Montgomery, for defendant.

W. E. Middleton, for plaintiffs.

MOSS, C.J.O.:—The cause of action alleged was an indebtedness by defendant to plaintiffs individually and as members of a partnership carrying on business under the firm name of Greig & Stewart. The partnership between plaintiffs was entered into on 12th February, 1902. Prior