

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ont.] BUGBEE v. CLERGUE. [Nov. 13, 1900.
CLERGUE v. HUMPHREY.

Action on foreign judgment—Original consideration—Ontario Judicature Act—Promoter of company—Loan to—Personal liability.

Under the Ontario Judicature Act, as before it, the declaration in an action on a foreign judgment may include counts claiming to recover on the original consideration.

A promoter of a joint stock company borrowed money for the purposes of the company giving his own note as security. The lender was informed at the time of the manner in which the loan was to be, and was, applied.

Held, that as the company did not exist at the time of the loan it could not be the principal debtor nor the borrower a mere guarantor. The latter was, therefore, primarily liable for repayment of the loan.

Judgment of the Court of Appeal (*Bugbee v. Clergue*, 27 O. A. R. 96; 36 C. L. J. 126), affirmed. Appeal dismissed with costs.

Riddell, Q.C., for appellant. *Wyld and Osler*, for respondent.

Ont.] CHATHAM v. BELL TELEPHONE CO. [Nov. 13, 1900.

Negligence—Proximate cause—Telephone pole—Third party—Costs.

A pole, to which the trial judge attributed the accident complained of, was planted in a public street by the telephone company by permission of the corporation, outside of the portion of the highway appropriated by by-law for the use of horses and carriages. The plaintiffs were driving in a vehicle when their horses became unmanageable, ran away at great speed and, the carriage coming in collision with the pole, injuries were sustained by the plaintiffs in respect of which they brought the action for damages against the city. The city impleaded the telephone company as a third party and the judgment appealed from affirmed a verdict in favour of the plaintiffs and the judgment entered thereon against the city for damages, which the third party was ordered to pay.

Held, reversing the Court of Appeal for Ontario, that the pole had been lawfully planted by the third party and did not constitute a nuisance