

HIGH COURT DIVISION.

LENNOX, J.

MARCH 1ST, 1920.

BELL TELEPHONE CO. OF CANADA v. OTTAWA
ELECTRIC CO. AND CITY OF OTTAWA.

Negligence—Employee of Plaintiff Company Killed by Touching Live Wire Left Hanging in Street—Payment by Plaintiff Company to Dependents under Workmen's Compensation Act—Liability to Reimburse Plaintiff Company—Electric Company—City Corporation—Liability for Acts of Servants of Electric Company—Joint Undertaking—Both Company and Corporation Sued—Company alone Found Liable—Costs.

A short note of the decision of LENNOX, J., in this case, appears in 18 O.W.N. 1.

His judgment was, upon the question of the liability of the defendant company, affirmed by a Divisional Court of the Appellate Division on the 20th September, 1920; but a new assessment of damages was directed by the order of that Court (ante 71); and an appeal by the defendant company from that order was dismissed by the Supreme Court of Canada on the 10th February, 1921.

In both appellate Courts there was also a cross-appeal by the plaintiff company against the defendant city corporation, and these appeals were also dismissed.

In the result, the judgment of LENNOX, J., as to the liability of the defendant company alone, was affirmed; and it is thought that a more extended note of his decision may be useful.

The action was tried by LENNOX, J., without a jury, at Ottawa. W. L. Scott, for the plaintiff company.

G. F. Henderson, K.C., for the defendant company.

F. B. Proctor, for the defendant city corporation.

LENNOX, J., in a written judgment, said that the defendant city corporation engaged the defendant company to furnish certain appliances and two of their workmen, at a stated rate per hour, to be assisted by two men in the employment of the city corporation, at thawing out frozen pipes from time to time and as occasion might arise, and in such places in the city as a city official should determine and direct. The skilled men for the operations were furnished by the company. The men furnished by the city corporation were unskilled helpers. The thawing was accomplished by wrapped or covered electric wire, attachable and detachable, one