

Q. B. Div.]

NOTES OF CANADIAN CASES.

[Q. B. Div.]

Maritime Court, upon a claim for wages, to make a fraudulent sale of the tug to I. Afterwards G. procured a renewal of the policy without disclosing the sale. G. then assigned the policy to M., who sent it to the defendants for their consent thereto, but before it was given the tug was burned in the Chenal Ecarte. At the time of the fire crude petroleum and rock oils were kept in the tug for lubricating purposes. M. and I. delivered proof papers of claim, but G. did not deliver any. At the trial leave was given to add G. and I. as co-plaintiffs, and judgment was directed to be entered for the full amount of the insurance.

Held, 1. That the leave to add G. and I. as co-plaintiffs had been properly given, but that the judgment should be reduced to the amount of M.'s claims.

2. That the tug was, at the time of the fire, in one of the localities allowed by the policy.

3. That the crude and rock oils being kept for lubricating purposes, clause f of the 10th Statutory Conditions did not apply.

4. That there was a sufficient compliance with the 12th and 13th Statutory Conditions.

Per WILSON, C. J. There was not sufficient proof of loss, and the defendants were not liable by reason of the crude and rock oils being kept in the tug.

Per O'CONNOR, J. A tug is not a building within clause f of the Statutory Conditions.

W. R. Meredith, Q.C., for motion.

Robinson, Q.C., and *Millar*, contra.

Wilson, C.J., in Single Court.]

BELL TELEPHONE COMPANY V. BELLEVILLE ELECTRIC LIGHT COMPANY.

License from municipal corporation—Telephone and Electric Light Companies—Interference by second licensee with rights of first—R. S. O. ch. 157, secs. 59, 70; 45 Vict. ch. 19, sec. 3 (O.).

An interlocutory injunction having been granted to restrain defendants who were carrying on business in partnership as an Electric Light Company under license from a municipal corporation from running their lines in such a way as to interfere with the safe and efficient working of the business of the plaintiffs, an incorporated Telephone Company,

also licensees of the corporation under authority granted two years previously to the defendants' license,

Held, that, although the circumstance that the plaintiffs were in possession of the ground, and had their poles erected about two years before the defendants put up their poles, did not give them the exclusive possession or right to use the sides of the road on which they had placed their poles, yet, their possession being earlier than that of the defendants, the defendants had not the right to do any act interfering with or to the injury of the plaintiffs' rights.

Held, also, that independently of the provisions of R. S. O. ch. 157, secs. 59 and 70, as extended to Electric Light Companies by 45 Vict. ch. 19, sec. 3 (O.), the plaintiffs were entitled to relief on the general ground upon which protection and relief in cases of this kind are granted.

Quare, whether defendants were liable to indictment.

S. G. Wood, for motion.

Dickson, Q.C., contra.

HISLOP V. TOWNSHIP OF MCGILLVRAV.

In an action against a township charging, (1st) the stopping up of a high way, thereby preventing access to plaintiff's farm; (2nd) the obstructing of a highway, thereby, etc.; (3rd) the not maintaining and repairing a highway, thereby, etc.,

Held, *per* WILSON, C. J., that as the part of the highway complained of was part of an original allowance for road which had never been opened or made, the statement of claim did not properly describe the subject of complaint, and the plaintiff must therefore fail.

2. That an action claiming a mandamus will lie against a municipality for not opening an original allowance for road, by reason of which the occupant of land cannot have access to and from his land, to and from a public road, if there be no other convenient way to and from his land, and if there be no good reason in respect of means or otherwise, why such allowance should not be opened; and if the work required to be done for that purpose be worth the outlay required to open and maintain the same.