

municipal corporation for damages sustained by reason of its neglect to perform a public duty while exercising merely permissive powers.

The question in issue here was recently given careful consideration in the Quebec Court of Review: *Quesnel v. Emond* (1912), 8 Dom. L. R. 537. In Quebec, as in Ontario, the power given to municipalities in regard to the organisation of fire companies, is enabling and not obligatory. Mr. Justice De Lorimier, in delivering the judgment of the Court (p. 543), expressed the law in a few words: "Municipal corporations are not obliged to protect property against fire. They have in this regard merely a facultative power which does not create an obligation, the inexecution of which would entail liability in damages for fire losses."

This action is accordingly dismissed with costs.

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HON. MR. JUSTICE LENNOX.

DECEMBER 9TH, 1913.

TILL v. TOWN OF OAKVILLE AND BELL TELEPHONE CO.

5 O. W. N. 443.

*Parties—Joinder of Defendants — Fatal Accident—Electrocution—Joinder of Telephone Company — Series of Occurrences—Joint Liability—Doubt in Plaintiff's Mind—Alternative Claim Permissible—Con. Rule 67.*

LENNOX, J., *held*, that where an action arises out of a series of occurrences for which one or both of two defendants are responsible and with which both are connected and the plaintiff is uncertain which defendant is liable, both may be sued.

*Compania Sansinena de Carnes Congeladas v. Houlder Bros. & Co.*, [1910] 2 K. B. 354, referred to.

That therefore where a death is caused by a shock from wires supplying electric current to a house and it is alleged that the same was probably caused by the crossing of the electric wires with telephone wires, both the municipality supplying the electricity and the telephone company are properly made defendants.

Appeal by defendants, the Bell Telephone Company of Canada, from an order made by the Master-in-Ordinary sitting for the Master-in-Chambers, on October 21st, 1913, dismissing appellants' motion for an order striking them out as defendants on the ground of improper joinder or for an order compelling plaintiff to elect which defendant she would proceed against and for other relief.