

SCOTT, LOCAL MASTER.

NOVEMBER 28TH, 1906.

CHAMBERS.

CAMPBELL v. CLUFF.

*Parties—Joinder of Defendants—Cause of Action—Pleading
—Negligence.*

Motion by defendants the Corporation of the City of Ottawa, for an order requiring plaintiff to elect against which of the defendants he will proceed.

The case set up by the statement of claim was that the defendants the Cluffs were the owners of the Gilmour Hotel which was destroyed by fire on 14th September last, leaving the front wall, abutting on Bank street, standing to a height of 40 feet, and on 9th October this wall fell to the street, injuring the plaintiff, who was lawfully travelling along the street.

Paragraphs 7 and 8 read as follows:—

7. The defendants were well aware of the dangerous condition of the said wall, and of the fact that its condition rendered the said street or highway unsafe for travel and out of repair, but, nevertheless, wrongfully and negligently permitted the said wall to remain in the condition as aforesaid, and the said street or highway to remain out of repair.

8. Under and pursuant to a by-law of the defendant corporation known as by-law 1079 (and certain amendments thereto) the defendant corporation had power, by its duly appointed officers in that behalf, to take down and remove the said wall, and to put the said street or highway into a proper state of repair, and the defendant corporation was in duty bound to do so, but, notwithstanding the said by-law and its duty as aforesaid, the defendant corporation wrongfully and negligently permitted the said wall to remain standing as aforesaid."

A. E. Fripp, Ottawa, for defendant corporation.

W. Greene, Ottawa, for defendants the Cluffs.

G. F. Henderson, Ottawa, for plaintiff.