the protection of passersby. Then negligence of the contractors or their servants which would otherwise perhaps be regarded as casual or collateral would now usually be considered default in performance, or failure in performance of the duty to protect passengers, or "vice in the work," and the original employer would, in general, be held responsible to persons injured in consequence of this default.

3. In cases of this sort the question as to the character of the negligent act, whether casual, or collateral, or otherwise, would seem to be immaterial; it is "negligence in the very act," and therefore negligence for which the original employer is responsible.

4. Nor is the question material where the contractors are employed to do what the employers are under a duty to do, and damage is caused to third parties owing to work being not done or badly done. The ground of liability in such a case is because the employer has not performed the duty cast upon him by law. There seems to be no modern case in which the absolute duty being once established, the person owing such duty has escaped liability by shewing that the act of the contractor's servant causing the damage was casual or collateral.

N. W. HOYLES.

THE BENCH AND THE PRESS.

We feel compelled to refer to a matter which is specially within our province as a legal Journal, as it affects the honour and dignity of the Bench.

The City of Toronto has a street railway, owned by a company not by the municipality. Disputes having arisen as to the construction of a contract between the parties, they came before the Courts of Ontario. The decisions given were, in the main, in favour of the contention of the city. These were in a large measure confirmed by the Supreme Court of Canada. Counsel for the Railway Company had always stoutly contended that the Courts here had misinterpreted the contract. Cross