

bind upon municipalities burdens hard to be borne, and to require of them the performance of a duty which they might well declare to be impossible."

"Gross negligence," as used in the Act of 1894, has been defined as "very great negligence:" Sedgewick, J., in *City of Kingston v. Drennan* (1896), 27 S.C.R. 46, at p. 60; Osler, J.A., in *Ince v. City of Toronto* (1900), 27 A.R. 410, at p. 414.

To hold the defendants liable in the present case would be to deprive them of the benefit of the statute exempting them from liability when an accident is occasioned by ice on a sidewalk in all cases where there has not been gross negligence on their part.

Such negligence not having been established, the plaintiffs fail. It is not, I think, a case for costs.

MEREDITH, C.J.C.P., IN CHAMBERS.

NOVEMBER 4TH, 1914.

#### RE CHARLTON AND PEARCE.

*Municipal Corporation—Regulation of Buildings—Residential Streets—"Fronts"—Municipal Act, R.S.O. 1914 ch. 192, sec. 406(10)—Municipal By-law—Highway—Approval of Plan of Subdivision—Municipal Amendment Act, 4 Geo. V. ch. 33, sec. 20—Mandamus to City Architect—Approval of Plans of Building.*

Motion by W. B. Charlton for a mandamus directed to the Corporation of the City of Toronto and one Pearce, the City Architect, to compel the respondents to approve the applicant's plans for the erection of a building at the corner of Thorburn avenue and Dufferin street, in the city of Toronto; the approval having been withheld by reason of a city by-law requiring buildings fronting on Dufferin street to be a certain distance from the street line; and the question being whether the proposed building fronted on Dufferin street or on Thorburn avenue, or both.

The by-law was passed under sec. 406(10) of the Municipal Act, R.S.O. 1914 ch. 192.

A. W. Anglin, K.C., for the applicant.

C. M. Colquhoun, for the respondents.