

Richards, J.]

[June 23.]

IVESON v. CITY OF WINNIPEG.

Municipality—Negligence—Notice of action—Liability for non-repair of highway.

The plaintiff's claim was for damages for injuries received in consequence of a fall caused by stepping on a decayed plank in a sidewalk on one of the streets of the city. The plank broke under plaintiff's weight. Its weakness was not visible either to the plaintiff or to the defendants' inspector who used to walk over it about three times in every two weeks. The sidewalk in question had been built about twenty-two years before, and was old and in constant need of repairs. It was proved that very frequently the stringers and the under side of the planks became rotten, while the upper side appeared still sound enough to walk on.

Held, that the method of inspection of the sidewalk was not sufficient to protect the city from liability for negligence to a person injured as the plaintiff was. The practice was to look for breaks and to replace planks found broken, but little or nothing was done to obviate the danger of breaks occurring, which danger should, in the case of such a sidewalk, have been anticipated.

The defendants also objected to the sufficiency of the notice of the action given by the plaintiff as required by sub-s. (b) of s. 667 of "The Municipal Act," R.S.M. 1902, c. 116, which says that "notice of any such claim or action must be served upon the clerk of the municipality within one month after the happening of the alleged negligence." Plaintiff's notice stated that she claimed from defendants \$1,000 damages with respect to the matters therein set out and that she would commence an action against defendants in the Court of King's Bench to recover that sum for injuries sustained by her through the omission and default of defendants to keep in repair the sidewalk in question. It was given within a month from the date of the injury, but did not state such date or the nature of the injury or how it had occurred.

Held, (1) following *Curle v. Brandon*, 15 M. R. 122, that the notice was sufficient. The statute should receive a liberal construction, and requirements, not specifically stated in it, and not necessarily implied, should not be read into it.