

He says that about a foot on the outside of the walk was bare. That agrees with the statements made by one of the ladies that she had been accustomed to walk along on the outside edge, because that was the only place she could proceed with any reasonable degree of safety. Then Mr. Finlay thinks that the ice was some 2 or 3 inches thick on the inside of the walk, and it sloped down towards the middle. He says there might have been places where it was thicker than 3 inches. That is not at all contradictory of the statements made upon plaintiff's side of the case, that it ran up to 6 and possibly 7 inches in height.

We have it shewn that this condition existed for 3 or 4 weeks previous to the accident, without any reason being given why this ice could not have been removed.

The case does not strike me as being at all similar in its facts with *Mahoney v. City of Ottawa*, decided by my learned brother Teetzel, and reported in 3 O. W. R. 695. That case is, I think, distinguishable upon its facts, and the only assistance one derives from the cases in matters of this sort is where the facts can be said to be largely identical. I think that the existence of this elevation for the length of time shewn here, during a mild winter, with the appliances used by the city for the removal of just such dangers as this, may be said to be gross negligence. No reason is shewn for the non-removal, nothing appears in evidence that would lead one to think it would have been unreasonable to expect the city to remove it; it is in a populous section of the city, much travelled, within half a dozen doors of one of the most travelled streets of the city; it remained there for the length of time I have mentioned. As to the knowledge of its existence (although that is not even necessary in this case), its presence appears to have been known by those whose duty it would seem to me to be, under the law, to have seen that it was removed. On all these facts I think the conclusion is irresistible that plaintiff has brought defendants within the section which makes them liable in actions of this sort.

I am dealing only with the point at which the accident occurred. I have no concern about the block from one end to the other, or any other block or blocks in the city. I am dealing distinctly with this particular location, 204-206 on the south side of Albert street.

Then as to the question of damages, the plaintiff's injury, fortunately, was not very serious. She is a lady in humble