B. 402, 411; *General Steam Navigation Co.* v. *Morrison*, 13 C. B. (N. S.) 581, 594; *Caswell* v. *Worth*, 5 El. & B. 849; *Atkinson* v. *New Castle & Gateshead Water Works Co.*, L. R., 6 Exch. 404; *Aldrich* v. *Howard*, 7 R. I. 199. It has been doubted, however, whether the cases go so far as is claimed. This doubt is expressed in *Flynn* v. *Canton Co. of Baltimore*, 40 Md. 312, and in that case the attempt is made to confine the liability to cases in which the neglected duty is prescribed for the benefit of particular persons, or of a particular class of persons, or in consideration of some emolument or privilege conferred, or provision made for its performance, and to show that it does not extend to a duty imposed without consideration and for the benefit of the public at large, the only liability for the neglect of such a duty being the penalty prescribed. And this view is supported by strong, if not irrefragable authority: *Hickock* v. *Trustees of Plattsburg*, 16 N. Y., note on p. 161; *Eastman* v. *Meredith*, 36 N. H. 284; *Bigelow* v. *Inhabitants of Randolph*, 14 Gray, 541; *Aldrich* v. *Tripp*, Index C, 14. But even supposing the liability is not subject to any such qualification, then, inasmuch as the neglected duty was not enjoined by statute but by a municipal ordinance, the question arises whether in this respect an ordinance is as effectual as a statute. There are many things forbidden by ordinance which are nuisances or torts, and actionable as such at common law. The question does not relate to them. The defendant has not done anything injurious to others which she was forbidden to do; she has simply left undone something beneficial to others which she was required to do under a penalty in case of default. The thing required was not obligatory upon her at common law. It was a duty newly created by ordinance, which, but for the ordinance, she might have omitted with entire impunity. The question is, whether a person neglecting such a duty is subject not only to the penalty prescribed, but also to a civil action in favor of any person specially injured by the neglect. If the liability exists, it is quite a formidable one. A fall on the ice is often serious in its consequences. The damages resulting from it may amount to thousands of dollars. And under the ordinance, the liability, if it exists, may be visited upon either the owner or the occupant of the abutting premises, or upon any person having the care of them. And further, if the liability exists under the ordinance in question, it exists *pari ratione*, under every ordinance prescribing a similar duty. To hold that it exists is therefore to recognize, outside the legislature, a legislative power as between individuals which, though indirectly exercised, is nevertheless in a high degree delicate and important. This we ought not to do, unless upon principle or precedent our duty to do it is clear; for we do not suppose that the creation of new civil liabilities between individuals was any part of the object for which the power to enact ordinances was granted.

In some of the cases the origin of the liability upon a statutory duty is ascribed to the statute of Westminster 2, cap. 50; 2 Inst. 485–6. See *Couch* v. *Steel*, 3 El. & B. 402, 411; *Aldrich* v. *Howard*, 7 R. I. 199, 214. That chapter, however, relates only to statutes; it does not extend to municipal ordinances. But even if the liability has its origin in the common law, we do not find that it has ever been held to extend to a neglect of duty enjoined simply by a municipal ordinance, and we think there are reasons, apparent from what we have already said, why it should not extend to it. The power to enact ordinances is granted for particular local purposes. It includes or is coupled with a power to prescribe limited punishments by fine, penalty, or imprisonment for disobedience. No power is given to annex any civil liability. The power, being delegated, should be strictly construed. It would seem, therefore, that the mere neglect of a duty prescribed in the exercise of such a power should not be held to create, as a legal consequence, a liability which, within the power, could not be directly imposed.

The plaintiffs, in support of the action, refer to *Jones* v. *Firemen's Fund Insurance Co.*, 2 Daly, 307, and *Bell* v. *Quinn*, 2 Sandf. 146. Neither of these cases is like the case at bar. The first was an action upon a policy of insurance containing a provision that the policy should be void whenever any article should be kept in greater quantities than the law allowed, or in a manner different from that prescribed by law, unless provided for in the policy. The plaintiff, who was insured, kept a kind of fireworks, called "colored lights," contrary to a city ordinance. The court decided that city ordinances within the city limits have all the force and effect of law, and that the plaintiff, therefore, could not recover. Here the only question was whether a city ordinance was a law in the sense in which the word was used in the policy. The court, in deciding that it was, expressed itself broadly; but its language, in so far as it covered more than the point decided, was *obiter dictum*. The case of *Bell* v. *Quinn*, 2 Sandf. 146, involved the effect not of a city ordinance but of a city charter. The action was upon a contract entered into in violation of the