pealed upon that extension by any one within the ten days were legally made, whether by Mr. McBride or any one else.

3rd. I decide that the affected granting of the *second* extension of time upon the application of the assessor on the 23rd of May was illegal; that the proceedings upon his appeal were void and *coram non judice;* that all alterations or additions made to the roll by the Court of Revision upon complaints or appeals made after the 23rd of May were entirely *ultra vires*; so that if any such were made in the cases referred to in the annexed list and schedule, they are hereby set aside, and the clerk of the municipality of the township of Bayham is hereby ordered to alter and amend the roll according to this my order, and to restore the roll to its original state in respect thereof, pursuant to the 65th section of the said Assessment Act.

4th. I further decide that the names of the following persons were improperly ordered to be struck out of the said roll by the said Court of Revision, and I order their said names to be restored as they were originally entered therein, viz: Robert W. Locker, Andrew M. High, Jesse Millard, Wm. H. McCollum, Edwin A. Weaver, James H. McKinney, Elisha Howell, Jeremiah McKinney.

5th. I further decide that the names of the following persons were improperly ordered by the said court to be inserted in the said roll, and I order their names to be erased therefrom, viz: Joseph Stansell, Thos. Baker, Andrew Shingler, James Oliver.

6th. I further decide that the names of the following persons were improperly ordered to be left in the said roll by the said court when they ought to have been ordered to be struck off and erased therefrom, and I order them to be erased therefrom, viz: Benjamin Drake, Heman A. McConnell, Robert W. Smuck.

7th. I further decide that the said roll ought to be amended in other respects as follows, viz.: Charles B. Saxton should have been assessed as tenant for six acres, a part of the east half of lot number 9, in the second concession, at $20 per acre—whole value $120.

8th. I further decide that the name of the following person was properly ordered by the said Court of Revision to be left on or inserted in the said roll, and I confirm the decision of the said court with respect thereto, and I order the appellant to pay the costs of this appeal with respect to it, viz: William Stratton.

Were a good purpose likely to be served by any remarks I might make, I should animadvert in terms of strong censure upon the way in which the functions of a court were discharged by the members of this Court of Revision. I shall, however, forbear making them, knowing that when in the discharge of duty men allow themselves to be actuated by strong sectional or political feelings, they are in no mind to listen to or benefit by words which might under usual circumstances serve for the public good. Still, I do insist and maintain that when a member of the bar may be heard before the highest tribunals of the land, and even before the Queen herself in her Privy Council on an appeal from one of his own courts in this Province; that that court, or the members of that court, must be very ignorant, indeed misguided, who would refuse him audience before a petty local tribunal such as a township Court of Revision.

Lastly, With respect to the costs in all the cases (with the exception of those referred to in finding eight, that is to say, regarding the appeal respecting the case of William H. Stratton), I order that all the costs of these proceedings in appeal be borne and paid by the municipality of the township of Bayham to the appellant forthwith.

UNITED STATES REPORTS.

SUPREME COURT OF MICHIGAN.

City of Detroit v. Blakeby and Wife.

A municipal corporation is not liable, in a private action for damages, for injuries caused by neglect to keep its streets in repair.

The cases founded on mere neglect to repair, and on acts of positive misfeasance reviewed and distinguished by Campbell, C. J.

[9 Am. Law R. 670.]

This was an action by defendants in error, against the City of Detroit, for damages received from the defective condition of a cross walk. In the Wayne Circuit Court the defendants in error had a verdict and judgment, to which the city took this writ of error.

The opinion of the court was delivered by

Campbell, C. J.—The principal question in this case is, whether the City of Detroit is liable to a private action of an injured party for neglect to keep a cross walk in repair. The other questions involve an inquiry into the circumstances which would go to modify any such liability in the present case.

There has been but one case in this State decided by this court, where the claim for damages arose purely out of a neglect to repair. In *Dewey* v. *Detroit*, 15 Mich., 307, such a suit was brought, but it did not call for a decision upon the main question. In *Township of Niles* v. *Martin*, 4 Mich., 557, it was held there was no such liability in a township, and this case was followed by us at the present term in *Township of Leoni* v. *Taylor*. It was held in *Larkin* v. *Saginaw County*, 11 Mich., 88, that a county could not be sued for directing a bridge to be built on a plan that was defective and injurious. In *Pennoyer* v. *Saginaw City*, 8 Mich., 534, a city was held liable for continuing a private nuisance which it had created, and in *Corey* v. *Detroit*, 9 Mich., 165, the City of Detroit was held liable for an accident caused by leaving an excavation in a street for a sewer imperfectly guarded. In *Dermont* v. *Detroit*, 4 Mich., 135, it was held the city was not liable for the flooding of a cellar by a sewer, into which it drained. None of those cases presented the precise question raised here, and we are required therefore to consider it as an original inquiry, except in so far as it may be affected by any principles involved in the cases already decided.

The streets of Detroit are public highways, designed like all other roads for the benefit of all people desiring to travel upon them. The duty or power of keeping them in proper condition is a public and not a private duty, and it is an