LATENT DEFECT—REASONABLE CARE AND SKILL — BURDEN OF PROOF — PRACTICE—EVIDENCE OF NEGLIGENCE.

In an action of damage by collision, the plaintiffs, in their statement of claim, in substance alleged that their vessel was at anchor when the defendants' steamer ran into her in broad daylight.—The defendants, in their pleading, made no charge of negligence against the plaintiffs, but alleged that the collision was caused by the steering gear of their vessel not acting in consequence of some latent defect or obstruction, which could not have been ascertained or prevented by the exercise of any reasonable care or skill on their part, and that the collision and damage were caused by inevitable accident:

Held, that the onus to disprove negligence lay on the defendants, and, therefore, that they must begin.—At the hearing, the defendants proved that the steam steering gear used was good of its kind, that it had been tried before the vessel left her anchorage to proceed on her voyage, that it was found to be in good order, that it had not previously failed to act, and that the cause of the defect in the machine, or obstruction in the working, could not be discovered by competent persons:

Held, that the defendants were not liable to the plaintiffs for the damages occasioned by the collision, as they had satisfied the onus of proof cast upon them to disprove negligence, and were not bound to go further and shew what was the cause of the defect or obstruction. *The Merchant Prince*, [1892,] P. 9.

ADVERSE POSSESSION—See Stat. of Limitations.

AGENT—See Bills and Notes 11.—Real Estate Agent.

ALIBI—See Crim. Law 6.

ANIMALS — VICIOUS DOGS — *Scienter*.

Held, that one, who in a city enters the back yard of another through an open gate on lawful business and is bitten by ferocious dogs running loose in the yard, of which he has no notice, has a right of action against the owner if the latter knew that the dogs were accustomed to bite, and nevertheless permitted them to run loose in such yard with the gate of the same standing open. *Conway v. Grant*, Supreme Court of Georgia.

Notes.

As general authorities on the subject, see *Brock* v. *Copeland*, 1 Esp. 203; *Sarch* v. *Blackburn* 4 Car. & P. 297; *Curtis* v. *Mills*, 5 Car. & P. 489; *Loomis* v. *Terry*, 17 Wend 496; *Pierret* v. *Moller*, 3 E. D. Smith, 574; *Kelly* v. *Tilton*, 42 N. Y. 263; *Sherfey* v. *Bartley*, 4 Sneed, 58; *Woolf* v. *Chalker*, 31 Conn. 121; *Laverone* v. *Mangiante*, 41 Cal. 138; notes to *Knowles* v. *Mulder*, (Mich.) 41 N. W. Rep. 896; Cooley, Torts, *345; Bish. Non-Cont. Law, 1235 *et seq.*; 1 Thomp. Neg. p. 220, § 34; *Muller* v. *McKesson*, 73 N. Y. 195; *Rider* v. *White*, 65 N. Y. 54.

APPEAL—SEE ALSO JURISDICTION—SOLICITOR.

1. RIGHT OF

Held, that, if on an action brought against a municipal corporation, for the purpose of quashing a by-law of such corporation, judgment be rendered in favour of defendant, by the Court of Queen's Bench (Appeal side), and since the rendering of such judgment, and while the plaintiff is still within the delays to appeal to the Supreme Court, the by-law is repealed: the right of appeal is taken away by the repeal of the by-law, only a question of costs remaining. *Martineau v. Ladouceur*, Supreme Court of Can. Nov. 11. 1891. 21 Rev. Leg. 272.

2. APPEAL AS TO COSTS ONLY — SUPREME AND EXCHEQUER COURTS ACT. s. 24.

After the rendering of the judgment by the Court of Queen's Bench refusing to quash a by-law passed by the corporation of the village of Huntingdon, the by-law in question was repealed. On appeal to the Supreme Court of Canada:

Held, that the only matter in dispute between the parties being a mere question of costs, the appeal should be dismissed: Supreme and Exchequer Courts Act. s. 24. Appeal dismissed with costs. *Moir* v. *Village of Hunting-*