

The facts are not seriously in dispute. The statement of them given by the witnesses called on behalf of the defendants does not materially differ from the statements given by these ladies who have testified, along with the plaintiff, upon her behalf.

It seems that last winter was an extremely mild one, and very little snow fell. That is, of course, material, because what might be negligence under one set of weather conditions, at a certain season of the year, might be no evidence whatever of negligence under another set of weather conditions, at some other season of the year.

It is in evidence that for some 10 or 12 days previous to the occurrences that led to this litigation, there had been no snow fall at all, and apparently no drip from adjacent eaves that reasonably could have been said to have been the cause of this elevation that existed upon this walk. The witnesses have agreed in the main as to the location of it and the extent that it covered the surface of the pavement. The plaintiff was under the impression that it was some 6 inches higher on the inside; Mrs. Starrs says about the same height, some 6 inches; "there was a slope from 6 inches down to almost nothing."

Mrs. Mills says she thinks it was 6 or 7. Mrs. Agar agrees with Mrs. Mills in saying some 6 or 7 inches high.

Mrs. Hutchison does not speak of the height, but she mentions the slant, the extent of time it had been there, and Frederick Mills speaks in the same way.

It is shewn by these witnesses, or some of them, that during the course of 3 or 4 weeks before this accident some three or four others had fallen at the point in question or in the immediate vicinity.

Then on behalf of defendants, the street foreman had made no particular examination of this walk; he was not sure whether he had passed over it on foot; he had driven along the street, and driving past he noticed there was ice upon the pavement. He was under the impression it was only $\frac{1}{2}$ or 3 inches in thickness.

Mr. Finlay, the ward foreman, was aware the walk was in the condition described by the witnesses for plaintiff, and Mr. Finlay's evidence in the main does not disagree with that of plaintiff and those called by her.