ries which, by commingling their streams, form the mighty basin upon whose uncertain currents the confiding plaintiff trusts himself? So that there be a public duty and a breach, what difference does it make whence the duty arises? And if the plaintiff declares that the defendant has neglected a duty, is it an answer to say that the alleged duty is one imposed by statute, and that since the plaintiff has not declared the source whence it sprung, he cannot recover? Sir William Blackstone says, "A general or public Act is an universal rule that regards the whole community, and this the Courts of Law are bound to take notice of judicially and *ex officio*, without the statute being particularly pleaded, or formally set forth by the party who claims an advantage under it: Com. I, 86. The plaintiff is not restricted by the statute to any particular form of action. It is true it does not even declare that the person injured by the neglect of this duty shall have an action. But this omission is hardly sufficient ground for denying a right to an aggrieved party, to maintain an action for injury resulting from the neglect of its directions. It would be idle for the Legislature to impose a duty, and then give no remedy for its breach. Its silence on this point, as well as the omission to impose a penalty, seem to lead to the supposition that it was intended to leave the party injured to the ordinary action for negligence. In fact, the imposition of a penalty, in many cases of this kind, would work injustice. For where many persons are injured, the first one suing for the penalty would obtain some slight compensation, and at the same time would discharge the aggressors from further liability. The reference of the negligence to the breach of the statute alone, however, makes it doubtful whether the plaintiff should not be debarred from complaining of the breach by the defendants, since he was *in pari delictu*. For, if the duty were an absolute one, it is as strictly applicable to the plaintiff as to the defendants; and how can he be heard to complain of the damage done to him, while he was in the very act of committing a breach of it himself?

The result of the case, as it has been decided, certainly does require especial care to be taken in the use of air-brakes; but railway companies can hardly complain of being obliged to exercise great vigilance and care in using a confessedly risky appliance. Even supposing the result to be the total prohibition of the use of the air-brakes, that is no valid ground upon which to rest the decision of the case.

An almost exact parallel to this case is to be found in the case of *Tuff* v. *Warman*, 2 C. B., N. S., 740, which was not cited to the Court. There the plaintiff declared on negligence simply, and the breach of a duty prescribed by a similar statute was given in evidence to support it, on which he succeeded.

E. D. A.

CANADA REPORTS.

ONTARIO.

COMMON LAW CHAMBERS.

(Reported for the *Law Journal*, by N. D. Beck, Student-at-Law.)

Re A. B. & C., Attorneys.

Lien of Town Agent.

Held, that, as against their principal, a country attorney, town agents have a general lien upon all documents, money and articles coming into their hands in the course of their agency business, without regard to the purpose for which they were received.

[February 7-8—Mr. Dalton.

Watson, for a country attorney, obtained a summons calling upon a firm of attorneys, who had until lately acted as his town agents