

all level cement walks in the town, and, owing to the long-continued cold weather, was very smooth.

The fall of the plaintiff was on Thomas street, a level street, but only a few feet from St. George street, which is hilly both before and after reaching Thomas street. St. George street was spoken of as a very dangerous street in winter, owing to the great slope of the walk, and the crossing at the intersection is spoken of as a bad crossing, but due entirely to the St. George street slope, and not due to any special danger on Thomas street. References to and quotations from *German v. City of Ottawa* (1917), 39 O.L.R. 176, affirmed in 56 S.C.R. 80. The facts that the level walk was covered with smooth ice, and that slipping on that ice caused the broken ankle, are not sufficient to make a corporation liable.

By sec.ⁿ 460 (3), except in case of gross negligence, a corporation shall not be liable for any personal injury caused by snow or ice upon a sidewalk.

Leaving the ice upon the sidewalk might be considered gross negligence, if nothing were done to overcome it; but there was evidence that abundance of sand had been provided by the corporation for use on dangerous portions of the sidewalks; that this particular street was sanded from time to time, and that this particular spot was sanded on Saturday, and again on Sunday afternoon. The accident occurred on Sunday evening, when the high wind had carried off most or all of the sand. There could not be said to be gross negligence or even ordinary negligence on the part of the defendants.

Action dismissed with costs.

