ceived it. It does not appear that it has yet been delivered to the Municipality. Under these circumstances the Municipality agree to arbitrate if Israel will become bound with his son, to fulfil the terms of the award. By the submission which recites the fact, that he (Israel) acted as Treasurer, it was agreed to refer the disputes about the omissions, &c., in the Books, and certain alleged deficiencies on David's part, or on the part of the said Israel to the arbitrators, and both covenant to perform the award. Under this state of things I think the arbitrators may well award against Israel.

Twelfth—I see no reason for referring back the award. Looking at all the facts of the case, I see no reason to doubt that the arbitrators have done substantial justice. Israel Ferguson was Reeve of the Township for *four* years; during that period his son was the Treasurer, and as Reeve he would no doubt have influence in the appointment of the other officers of the Corporation. As head of the Corporation, it was his duty to see that all the subordinate officers did their duty; that the Treasurer kept proper books, and entered therein all monies received and paid out on account of the Township. It was also his duty to see that the Treasurer gave good security for the proper discharge of the duties of the office. As Deputy-Treasurer, or as real Treasurer, discharging the duties of the office in his son's name, he undoubtedly omitted to enter some monies which he had received for the Township, and for which he gave the Treasurer's receipt. He contended that he had paid out monies for the Township which amounted to the sum so omitted to be entered by him, and that these sums had not been entered as monies paid out for the Township. One of the persons appointed to look over the accounts, states that the amounts so claimed by him to be allowed were all entered in the Treasurer's books. By thus being connected with the office of Treasurer, he was placed in a position, where, if the Treasurer neglected his duty or acted dishonestly, the Municipality lost the supervision of its head over that officer, for he could not be expected to report his own negligent or dishonest acts to the body over which he presided. When called upon to deliver up the bond of the Treasurer, he does not produce it, but says he gave it to a subordinate officer who denies having received it. By connecting himself with the active discharge of the duties of the office of Treasurer, he incapacitated himself for the proper discharge of his first duty, viz., that of looking after the interests of the Corporation of which he was the head; and whenever the Corporation suffer from the default or misconduct of the Treasurer, Mr. Israel Ferguson has no right to complain if the worst construction is put on all his acts, and that he is made personally liable for any defalcations that occurred in the office, the duties of which he personally discharged, and when the monies claimed to be missing, were paid over to him. Then, where is the bond given for the proper discharge of the duties of the office of Treasurer? If he has improperly retained the possession of this, the presumptions would be still stronger, and against him. Finally, if he has kept the books of the Treasurer, and the accounts of the Municipality in such a confused or improper manner, (when in truth he ought not to have medled with them at all,) so that the intelligent gentlemen who acted as arbitrators, and the others who investigated the accounts of the Corporation, satisfied themselves that there was a large sum of money due by the Treasurer to the Municipality he has no good ground of complaint.

In moving to set aside this award, the Treasurer contents himself with general statements, that the accounts have been audited and allowed, and therefore the award is wrong. If it could be shewn what sums were improperly charged against the Treasurer by the arbitrators, and what they had refused to allow, there would be a greater shew of reason to support the rule. On the other hand, the arbitrators explain that they only charge the Treasurer with monies paid to him for which receipts and vouchers were produced; and that they allowed him for monies paid—shewing how the amount is made up. I cannot say that I have any doubt as to the correctness of the award.

It will be for the Corporation to ascertain, when taking steps to enforce the award, if the proceedings taken by the Municipal Council shew a sufficient authority to the Reeve to enter into the submission on behalf of the Corporation, and whether the obligation as to want of mutuality in the submission, is one that can be urged with success.

Per Cur.—Rule discharged.

QUEEN'S BENCH.

(*Reported by* CHRISTOPHER ROBINSON, Esq., *Barrister-at-Law.*)

LAZARUS v. THE CORPORATION OF THE CITY OF TORONTO.

Snow falling from roof—Injury thereby—Liability.

There is no duty at common law upon owners or occupiers of houses to remove snow from the roof, and no liability for accidents caused by its falling.

The defendants, a city corporation, owning land in the city, leased it to one H. upon certain conditions as to building, and he erected a house upon it under the directions of their architect. The lower story was occupied by one S. as lessee of H. and the upper story and garret by defendants. There was no evidence of any fault or negligent construction of the house or roof, nor of any by-law passed by defendants to regulate the removal of snow. The plaintiff having been injured while passing along the street by snow falling from the roof. *Held*, that defendants were not liable.

This was an action brought for injury caused to the plaintiff by the falling of snow from the roof of a house in King Street, in the City of Toronto. The declaration contained two counts.

First count—That the defendants were and are the tenants and occupants of the upper part of a certain house and premises on King Street in the City of Toronto, being part of St. Lawrence Hall, and it therefore became the duty of the defendants to clear the show off the roof of the said house and premises, and to prevent the snow from collecting and accumulating on the said roof in such quantities and in such a position that it became liable to fall and descend therefrom, to the danger of persons passing along the said street; but the defendants wrongfully and injuriously neglected this said duty, and failed and omitted to remove and clear off the said snow from the said roof, whereby a large quantity therefore descended and fell from said roof with great force neglected this said duty, and failed and omitted to remove and violence upon the plaintiff, who was then lawfully walking and passing along the said street in front of the said house and premises, and knocked the plaintiff down, and caused her great and permanent injury by producing congestion of the brain, and destroying the sight of one of the plaintiff's eyes, whereby she was put to great pain and loss, and obliged to pay and expend large sums of money in and for physicians and medical attendance, and was prevented from following her usual occupation as governess, and has been rendered permanently unable to follow her said occupation or profession.

Second count.—That the defendants, being the owners of a certain lot of land on King Street, in the City of Toronto, caused to be built and erected thereon a certain house, being part of the buildings knows as the St. Lawrence Hall, upon and adjacent to a certain highway and public thoroughfare in the said city, know as King Street, and therefore it became and was the duty of the defendants to build and construct, and cause to be built and constructed, the roof of the said house in such a skilful manner that the snow collecting thereon should not fall and descend with force and violence in a large mass in and upon the said street, to the danger and injury of persons lawfully passing and going over and along the said highway and thoroughfare; yet the defendants, contrary to their duty in that behalf, so negligently and unskillfully caused the roof of the said house to be constructed, that the snow which collected thereon suddenly and with great force and violence descended and fell on the plaintiff, then lawfully passing along the said street or highway in front of the said house and premises, and knocked the plaintiff down, &c.. as in the first count.

Pleas.—1. Not guilty. 2. That before and at the time of the committing of the said alleged grievances the defendants were the owners in fee of the said lot or piece of ground on which the said house was standing, and that long before the said time when, &c., by a certain lease made by the defendants under their corporate seal, the said lot or piece of ground was let for a term of years, which had not at the time when, &c., nor has yet expired, to one Thomas Hutchinson, and that the said Thomas Hutchinson at the same time when, &c., occupied the said house as the tenant thereof under the said lease to the defendants, and as such tenant it was