In Georgia the courts considered that the landlord was responsible to the tenant down below for damages arising from the overflow of a bath tub, *et cetera*, in an upper flat, even though the water-works were properly constructed and another tenant who had access to and had a right to use these modern conveniences was the one whose carelessness caused the injury. But the Court said that the decision would have been otherwise had the proprietor shown that the exclusive possession and user of the bath room had been in a negligent tenant. *Freidenburg* v. *Jones*, 63 Ga. 612; 66 id. 505.

But in Illinois it was decided that a landlord who had not expressly covenanted with his tenant to repair was not liable to pay the damages caused by water, either dirty or clean, coming upon the tenant from above through the carelessness of another tenant or otherwise. *Green* v. *Hague*, 10 Ill. App. 598; *Mendel* v. *Fink*, 8 id. 378. Nor must he pay if the water-pipe suffers a temporary obstruction, if he sends for the plumber as soon as he knows that his labours are required. The law is merciful and requires no man to keep a plumber always on his premises. *Green* v. *Hague*, *supra*. And so in New York: there one A. hired the basement and first floor (according to Cis-Atlantic notions) of a building for a bake shop. The owner entered into an agreement with some builders to make alterations in the upper stories; the work was negligently done and A.'s bake shop was injured by the dust and rain. The owner however was not to blame, and the careless acts of the contractors had been contrary to his wish and advice. The court, when asked to consider the case, gave it as their opinion that the landlord was not liable. *Morton* v. *Thurber*, 85 N. Y. 550.

Now as to the liability of other persons in this direction. It seems clear that if a housemaid, whose duty it is to keep in order an upper room and attend to the lavatory attached to it and wipe out the basin, uses the basin for her own purposes and omits to turn off the water so that it floods the room of another occupant below, then the master of the said domestic will be liable to the gentleman downstairs; and that although the master had expressly forbidden his maid using the basin, and had told her never to leave the tap open. This liability attaches to the master because the servant's acts would be incidental to her employment. Per Grove, J., *Stevens* v. *Woodward*, 6 Q. B. D. 318.

If, however, a law student should go into his master's private lavatory and leave the water-tap running, the solicitor would not be liable for the results. This was decided in the case lastly mentioned, which is a very interesting case and one that should be carefully studied by all law clerks. The plaintiff's were booksellers occupying the basement of a house, and the defendants, a firm of solicitors, who occupied the floor above. Water overflowing from the lavatory in the private room of one of the defendant's escaped through the floor to the basement, injuring the bookseller's stock-in-trade. The flooding was caused by a clerk of the solicitors, who, after Woodward had left for the day, had gone into the private room to use the water and left the tap open. The clerk had no right to use the basin, and no business to go into the room after W. had left, and orders to that effect had been given. The jury gave a verdict for £15. When the matter came before the court the learned counsel for the plaintiff expressed his views of the daily routine and general practice of law students; and on the other side what was the duty of such necessary members of society was proclaimed. Candy was for the booksellers; he said: "Here the clerk was in the office during working hours, and it was part of the routine of the day's work to wash his hands. It is the general practice of such clerks to wash their hands in the offices where they are employed. That he was forbidden to do so (go into the private room) is irrevelant. He was acting within the scope of his employment." *Venables* v. *Smith*, 2 Q. B. D. 279. On the other hand, Petheram, Q. C., Dewitt and G. G. Kennedy, remarked in support of the rule for a non-suit, that the principle is well stated in *Whatman* v. *Pearson*, L. R., 3 C. P. 422. Here the clerk was acting for himself, and on his own responsibility. His duty was clearly to keep in his own room and not to wash his hands in the room of his master. Could it have been said that the master would have been liable if the clerk had washed his hands in some tavern near by during office hours, and left the tap there running? The court disposed of the matter by holding that the solicitors were not liable, for that the act of the clerk was not incidental to his employment, and that he was not acting within the scope of his employment. Grove, J., thought he would have come to the same conclusion as that he had arrived at, if there had been no express prohibition in the case, and it had merely been shown that the clerks had a room of their own and a lavatory where they could wash their hands, "then what possible part of the clerk's employment (he continued) could it be for him to go into his master's room to use his master's lavatory, and not only the water, but probably his soap and towels solely for his, the clerk's own purpose? What is there in this in any way incident to his employment as a clerk? I see nothing." His lordship said it was a very nice question.