

person from "driving, leading, riding, or backing any horse or any other animal or wagon or other vehicle along any sidewalk," and it has been held that a bicycle is a vehicle and the use of a bicycle is "encumbering" a sidewalk within the purview of such a by-law. (l)

The word "road" in a statute is for some purposes regarded as comprehending footpaths. Thus it has been held that the offence of "wilfully preventing or interrupting the free passage" of persons on a "public road" (Irish Summary Jurisdiction Act, s. 35, s-s. 3) is committed by a bicyclist who rides along a footpath beside a country road, even though no one is in sight, and he does not intend to interfere with anyone. The Court took the ground that the act was done upon a part of the road, and was clearly calculated to "prevent or interrupt" the free passage of those persons for whom a footpath is specially intended, viz., foot-passengers. To this conclusion it is not a sufficient answer that if the rider sees anyone coming he may get out of his way by leaving the footpath, for there may be times and circumstances when it is impossible even for the most skilled rider to avoid coming into contact with people. (m)

6. Right of cyclists to recover for injuries caused by defective highways—(a) Liability of highway authorities, generally.—For the purposes of the present article it will be sufficient to remind the reader that, according to the doctrine accepted in all common law jurisdictions, a statute transferring to a public corporation the obligation to repair does not of itself render such corporation liable to an action in respect to mere non-feasance. To produce that effect language must be used by the legislature which indicates its intention that this liability shall be imposed. (n)

Usually, however, the question in cases where a traveller seeks to recover damages for a breach of the duty to keep a highway in

(l) *Reg. v. Justin* (1893) 24 O.R. 327, approving *Reg. v. Plummer* (1871), *supra*.

(m) *McKee v. McGrath* (1891) 30 L.R.I. 41.

(n) *Picton v. Geldert* (1893) A.C. 534; *Cowley v. Newmarket Local Board* (1892), A.C. 343; *Municipal Council etc. v. Bourke* (1895) A.C. 433. The comments in the first two of these cases upon *Bathurst v. Macpherson* (1879) 4 App. Cas. 256, shew that the ground of the decision was that the municipality had been guilty not of a mere non-feasance, but of the maintenance of a nuisance. For other authorities upon the general rule stated in the text see *Shearm and Redf. on Negl.*, sec. 337.