

The reason of the rule that a municipal corporation cannot be held liable for the non-action of its officers in this regard is stated to rest on the principle of *ultra vires*—the city not being held liable where the non-action of its officers is contrary to the will of the corporation, as expressed in its ordinances: *Peck v. City of Austin*, 22 Tex. 261, 73 Am. Dec. 261. Chief Justice Marshall in the case of *Fowle v. Alexandria*, 3 Pet. (U.S.) 398, gives expression to his opinion 'on this question as follows: 'That a legislative corporation, established as a part of the government of the country, is liable for losses sustained by a nonfeasance—by an omission of the corporate body to observe a law of its own in which no penalty is provided—is a principle for which we can find no precedent.'

The cases on this subject now cover quite completely, as far as the principle of the thing is concerned, every phase of municipal life. Thus it is held that a city is not liable because of failure to enforce an ordinance requiring excavations to be fenced: *Moran v. Pullman Palace Car Company*, 134 Mo. 641, 56 Am. St. Rep. 543. So, also, where the city authorities temporarily suspended an ordinance forbidding cattle running at large in the streets, and by reason of this suspension, plaintiff was injured by being gored by a bull, it was held that the city was not liable: *Rivers v. Augusta*, 65 Ga. 376, 38 Am. Rep. 787. Neither is a city liable for injuries caused by a discharge of fireworks, in a case where the city officials granted a suspension for the day of the accident, of an ordinance forbidding the discharge of fireworks: *Hill v. Charlotte*, 72 N. Car. 55, 21 Am. Rep. 451; *Fifield v. City of Phoenix* (Ariz.), 36 Pac. Rep. 916; *Wheeler v. City of Plymouth* (Ind.), 18 N. E. Rep. 532; *Lincoln v. City of Boston* (Mass.), 20 N. E. Rep. 329. So, also, a city is not liable for damages sustained by a property owner because its officials failed to prevent the erection of a wooden building on an adjoining lot, in violation of an ordinance forbidding the erection of wooden buildings within certain limits: *Hines v. City of Charlotte*, 72 Mich. 278; *Forsyth v. Atlanta*, 45 Ga. 752; *Harman v. City of St. Louis*, 137 Mo. 494. In the last case cited, the court said: 'The idea that because the City of St. Louis has exercised the right of passing an ordinance prohibiting structures of a certain character to be built within certain districts therein defined, that therefore it must enforce the observance of said ordinance at the hazard of being subject to all