or three weeks. It may be assumed that the members of the council reside in different parts of the township, and that the meetings of the council are held at intervals of several weeks. It is not shewn that any member or officer of the municipal council, except Pathmaster Pridham, knew of the milk-stand being where it was at the time of the accident; and it is not shewn that he communicated its existence to any member of the council, or that it was his duty to guard or remove it. He did neither; and the council, neither collectively nor individually, had any knowledge of its existence.

I, therefore, fail to see how, under such circumstances, the defendants can be charged with notice which would render them liable for negligence in permitting the stand to remain where it was.

I, therefore, think the learned trial Judge was right in his disposition of the case, and that this appeal should be dismissed with costs.

SUTHERLAND and LEITCH, JJ., concurred.

RIDDELL, J., also concurred. He said that, unless the Court was prepared to overrule Maxwell v. Township of Clarke, 4 A.R. 460, and O'Neil v. Township of Windham, 24 A.R. 341, and other such cases (referred to in Judge Denton's valuable work on Municipal Negligence, pp. 83-85), it could give judgment for the plaintiff. Speaking for himself, he was not satisfied with the reasoning or result of these cases, but the Court could not reverse them—that must be done, if at all, by the Legislature or a higher Court.

Appeal dismissed with costs.

FEBRUARY 3RD, 1913.

BINGHAM v. MILLICAN.

Guaranty—Payments Made by Guarantor—Recovery from Principal Debtor—Account—Interest—Appeal—Costs — Counterclaim.

Appeal by the defendant from the judgment of WINCHESTER, Senior Judge of the County Court of the County of York, in