

and Davey, L.JJ.) held that the municipality was not liable, overruling *Kent v. Worthing*, 10 Q.B.D. 118. We may observe that, under The Consolidated Municipal Act (55 Vict., c. 42 (O.)), s. 53, an express liability to repair highways is imposed on the municipality, subject to the exception mentioned in s-s. 2, and therefore, as regards cases arising under that Act, neither this case nor that of *Picton v. Geldert* would exonerate the municipality from liability.

CRIMINAL LAW—EMBEZZLEMENT—"CLERK OR SERVANT"—DIRECTOR OF COMPANY—24 & 25 VICT., c. 96, s. 68—(CRIMINAL CODE, s. 319 (a)).

In *The Queen v. Stuart*, (1894) 1 Q.B. 310, a case was reserved by a chairman of Quarter Sessions on the simple point whether a director of a company who had been employed as a servant to collect moneys for the company was liable to be convicted of embezzlement as a "clerk or servant" of the company under 24 & 25 Vict., c. 96, s. 68 (Cr. Code, s. 319 (a)). Lord Coleridge, C.J., and Mathew, Grantham, Lawrance, and Collins, JJ., were unanimous that he could, and the conviction of the prisoner was accordingly affirmed.

RAILWAY—COMPENSATION—DAMAGE FROM WORKING RAILWAY.

*Attorney-General v. Metropolitan Railway*, (1894) 1 Q.B. 384, was an action to recover compensation from a railway company under the following circumstances: The defendants, under their statutory powers, constructed an underground railway; for the purpose of their railway, they acquired a piece of land, in which they opened a shaft for ventilating their line. The plaintiff became lessee of a house adjoining this piece of land, and afterwards the defendants enlarged their air shaft, in consequence of which larger quantities of smoke, steam, and foul air issued therefrom, to the increased discomfort of the occupants of the plaintiff's house. For this increase of nuisance the plaintiff claimed compensation, but the Court of Appeal (Lindley, Smith, and Davey, L.JJ.) decided that neither on the ground of nuisance, nor yet under the Railway Act, was the plaintiff entitled to succeed, as the injury complained of arose from the working of a railway, which the defendants had a right to carry on under their statutory powers, and that but for this the mere alteration in the shaft would have caused no damage.