

is one for the maintenance of which, in good repair, the defendants are responsible. Their liability to keep it in repair is admitted as regards the central portion, or part on which vehicles travel, but it is contended that it does not extend to the side or portion on which the sidewalk is shewn to be; that part, however, is as much a part of the original road allowance as the centre part, and may be lawfully used by persons travelling on foot, and had been so used for 20 years, and it is impossible to say that it is not part of the public highway in the keeping or control of defendants. It is not necessary to determine the origin of the sidewalk. If placed there by defendants, or being there was assumed by them, their liability is clear. If not so placed or assumed by them, they allowed it to remain, and in its condition of non-repair it was an obstruction to the safe use of the travelled way, which it was their duty to remove, and by reason of their neglect the highway was out of repair.

Appeal dismissed with costs.

W. D. Henry, Orangeville, solicitor for plaintiff.

E. G. Graham, Brampton, solicitor for defendants.

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