

BRITTON, J.

JANUARY 18TH, 1917.

GERMAN v. CITY OF OTTAWA.

Highway—Nonrepair—Icy Sidewalk—Injury to Pedestrian—Municipal Act, R.S.O. 1914 ch. 192, sec. 460 (3)—Gross Negligence—Absence of Contributory Negligence—Damages.

Action by William Manley German, K.C., M.P., for damages for injury sustained by him by a fall upon an icy sidewalk in Besserer street, in the city of Ottawa, on the 2nd February, 1916.

The action was tried without a jury at Ottawa.

The plaintiff appeared in person (E. R. Chevrier with him).

F. B. Proctor, for the defendants.

BRITTON, J., in a written judgment, said that the employees of the defendants knew of the dangerous condition of the sidewalk as early as the Monday before the plaintiff's injury, and the dangerous condition was allowed to remain until Wednesday, the day of the injury. That was gross negligence within the meaning of sec. 460 (3) of the Municipal Act, R.S.O. 1914 ch. 192. There was nothing negligent in the system adopted by the defendants of keeping their sidewalks in proper condition; the negligence was in failing to carry out the details of the system—in not providing for the weather conditions or other conditions at the place where the plaintiff fell.

Reference to *Huth v. City of Windsor* (1915), 34 O.L.R. 245, 542; *City of Kingston v. Drennan* (1897), 27 S.C.R. 46.

The plaintiff was not guilty of contributory negligence.

Judgment for the plaintiff for \$2,250 damages with costs.

MASTEN, J.

JANUARY 18TH, 1917.

RE DARDIS.

Will—Construction—Gifts to Brothers and Sisters after Death of Widow—Alternative Gifts to Children of Deceased Brothers and Sisters and Heirs of those Dying Childless—Time of Vesting—Period of Distribution—Ascertainment of Persons Entitled to Share—Divestment of Vested Estates.

Motion by the administrators (with the will annexed) of the estate of Thomas Dardis for an order determining the true con-