meant "duty and obligation," which were enforceable by a private action for damages. In this view of the case, it would appear to be an exception to the general current of authorities.

III. In the principal case of *Wills* v. *City of Brooklyn*, 5 Am. Law Reg. N. S. 33; the declaration averred that the drain in question was negligently and unskilfully built, being entirely inadequate for the purpose designed. It was a temporary drain merely, and it appears not to have been denied, that it was of insufficient size to carry off the water from such storms as might be frequently expected to occur. It may, therefore, be regarded in one view as a negligent performance of duty by the corporation, who though not bound to make a sewer there, were bound to make a good one if they made any at all. The case therefore would come within the class already noticed, where the corporation is liable, and this appears to have been the view taken by the judge who tried it in the court below. But the cardinal fact in the evidence, as reviewed by the Chief Justice in the Appellate Court, was, that the construction of the drain did not put the plaintiff in any worse position than he was in before it was made. On the contrary, though not a perfect protection, the drain was nevertheless, a benefit so far as it operated at all, and therefore, unless the defendants would have been liable for not making any drain, they were not liable for making an insufficient one. If on a new trial, the fact should appear to be otherwise, the plaintiff might still recover without in any degree impeaching the rules of law so clearly and satisfactorily laid down by the Chief Justice in the foregoing opinion. — *American Law Register.* J. T. M.

## MAGISTRATES, MUNICIPAL & COMMON SCHOOL LAW.

### NOTES OF NEW DECISIONS AND LEADING CASES.

Action for not Repairing a Bridge—Common Law liability—Notice of Action—Con. Stats. U. C. ch. 126; ch. 54, sec. 341.—In an action against defendants for negligence in not keeping sufficiently secured a bridge, which had passed from the crown under their control, in consequence of which it broke away from its fastenings, and injury was thereby caused to plaintiff. *Held*, that defendants were liable to plaintiff at common law in a civil action for the injury sustained by him, although the property and freehold in the bridge were not vested in them; and that they were not entitled to notice of action under Con. Stats. U. C. ch. 126, as they were sued, not for acts done, to which that statute alone applied, but for acts omitted to be done by them. *Held*, also, that defendants were bound to maintain the bridge, after it came into their hands, in the same state of repair that they would have been if it had been built by themselves, and not merely in the condition in which it was when they received it from the crown. *Semble*, that if the accident complained of had occurred within so short a period after the transfer of the bridge to defendants that they had not had time to ascertain the defects, they would not, under the circumstances of their not having had any voice either in its construction or in its transfer, have been liable to plaintiff. *Quære*, whether the Commissioner of Public Works, if furnished with funds to repair the bridge, would not have been liable to indictment, if, with full knowledge of its dangerous condition, he had wilfully neglected to repair it. Sec. 341, Con. Stats. U. C. ch. 54, does not limit the responsibility of counties to the same kind of responsibility to which magistrates in Quarter Sessions are subjected, that is, to criminal responsibility merely: the object of the statute is to transfer from the magistrates to the county councils all their powers, &c., and on the completion of such transfer, the councils are to hold the property affected in like manner, and subject to their general duties and *liabilities* respecting other property belonging to them: (*Harrold* v. *Corporations of Simcoe and Ontario*, 16 U. C. C. P. 43.)

Municipal Corporation—Failure to Provide Sewerage.—A municipal corporation is not liable in a civil action to a private property owner, for failure to provide sufficient sewerage to drain his lot. The public duty to provide sewerage and drainage for the city in the first place, is *quasi* judicial, and the exercise of discretion as to the manner of performing it, is to be distinguished from a neglect of duty, by which a sewer is so badly constructed or allowed to get so out of repair as to become a nuisance, for which the corporation would be responsible: (*Mills* v. *City of Brooklyn*, 5 American Law Register, N. S., 33.)

## SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

### NOTES OF NEW DECISIONS AND LEADING CASES.

Deduction from Price agreed upon—Liquidated Damages—Admissibility in Evidence.—An agreement in writing, by which plaintiff undertook to do for defendant certain work therein specified, contained the following clause: "The whole of the work to be completed, and the mill in good running order, by the 15th of April next, under a penalty of ten dollars per day from that day until completion, as and for liqui-