THE LOCAL MASTER:—With the question of whether or not as a matter of law a good cause of action is shewn, I have nothing to do. It will be seen that what is complained of is that defendants—all the defendants—wrongfully and negligently permitted the wall to remain in a dangerous condition. It is assumed to have been the duty equally of the owners and of the corporation to have removed it, though the duty is rested in each case on a different basis. The Cluffs are said to be liable as owners of the property, presumably on the principle of Rylands v. Fletcher. The alleged liability of the corporation is put on two grounds, first, non-repair of the highway, and, secondly, a duty said to have been assumed by the passage of the by-laws referred to.

I have carefully examined all of the numerous cases cited on the argument. Cases of the class of Sadler v. Great Western R. W. Co., [1895] 2 Q. B. 688, [1896] A. C. 450, McGillivray v. Township of Lochiel, 8 O. L. R. 454, 4 O. W. R. 193, Hinds v. Town of Barrie, 6 O. L. R. 656, 2 O. W. R. 995, and Grandin v. New Ontario S. S. Co., 6 O. W. R. 553, where the parties sought to be joined were alleged to have been guilty of separate and distinct acts, which combined either to bring about or to augment the damage, have no application, nor do either cases against directors and their companies or cases arising out of contracts afford much assistance. The case most near in circumstances to the present one is Bain v. City of Woodstock, 6 O. W. R. 601; but I think there is a clear distinction between the two. There, as pointed out by the Master, the wrongful placing of the lumber on the highway by the Patricks, and the breach of their statutory duty to remove it on the part of the corporation, were not only quite distinct causes of action, but did not even arise at the same time. Here the act, or rather omission, complained of, on the part of the Cluffs and of the city corporation, is identical, though the duty in the one case depends on a different principle from that in the other. In Hinds v. Town of Barrie, 6 O. L. R. 656, at pp. 661-662, Mr. Justice Osler, after pointing out that the language of the Rule is embarrassing and calculated to mislead a litigant and to promote delay and expense, says: "Probably the phrase 'cause of action' is not to be strictly read in its former technical sense, so that where persons have