

REVIEWS.

scribe it better than by giving an extract taken haphazard from its pages. The hero and his friend have just left the house to start for an afternoon walk.

"Scarce had our feet touched the sidewalk when, with the exclamation, 'Get out you rascal!' Jones executed a *pas seul*, and then lay sprawling on the ground; and the small boy—whose sled as it slid swiftly down the board walk my friend had vainly endeavored to avoid—glided merrily on. As I whisked the snow off, Jones in wrathful accents consigned the juvenile to a place beyond the possible limits of frost, and exclaimed:

"I'll sue the city for allowing the road to be in such a beastly state. Corporations are bound to keep the street in a proper condition, so that the lives and bones of passers-by will not be endangered."

"True," I replied, "but the accident was not wholly caused by the slipperiness of the pavement; the unlawful and careless act of the boy in coasting had something to do with your overthrow; and in the exactly similar case of Mrs. Shepherd it was decided that the city was not liable."*

"I tell you all towns and cities must keep their highways and streets in repair, so that they are without obstructions or structural defects which may endanger the safety of travelers, and are sufficiently level and smooth, and guarded by railings when necessary, to enable people, by the exercise of ordinary care, to move about with safety and convenience."†

"You repeated that sentence very well and with great emphasis. It is quite correct in a general way that highways, streets and sidewalks should at all times be safe and convenient, but then regard must be had to the locality and intended uses.‡ Towns are liable only for injuries caused by defects and obstructions for which they might be indicted.¶ They do not insure the safety of all using sidewalks in the depths of our northern winters;§ and it has been expressly decided that the mere existence of a little ice on the walk is no evidence of actionable negligence:¶ the slipperiness of the ice, if the walk is properly constructed and free from accumulations of snow, will not give those who fall a right to sue a city with success.** One must go gingerly and with due care on such occasions.††

"All very fine," said Jones, "but when my friend Clapp, in walking along the streets of the city of Providence, at night, fell on some ice and broke his thigh, he recovered damages."

"Yes, I remember; but then there was a ridge of ice and snow, hard trodden, in the centre of the sidewalk, which was considered such

an obstacle as the city should have removed.* And'—

"Ere I had completed my sentence the hour of my doom had struck, and I was as white as ever miller was; an avalanche of snow slid off a roof and thundered down on my devoted head. Jones with a smirk asked me if I was going to sue for damages. Sadly, as I twisted my head slowly round and nodded first to right and then to left, to see if the veterbræ were all in working order, I replied:—

"Ah, no! I cannot do so with success.† It's a case of *damnum absque injuria*."

"Ho! ho!" laughed my companion; 'strong language; but no wonder.'

"If the owner of the house had left the ice and snow there for an unusual and unreasonable time after he knew of its presence and might have removed it, he probably would have been liable to me,‡ or, if that old awning had fallen on me,|| or if that lamp hanging over Sol's Arms' door had lighted on my crown, producing an extra bump, for the edification of Fowler and Wells and the savants of that ilk, I might have got something in the first case out of the city; in the other from the landlord.§ Or if one of those barrels had rolled out of that warehouse, and, thumping against your legs, had brought you down, you might have sued the merchant.¶

"Look at that poor old woman; she will come to grief most assuredly."

"Before us toddled an aged granny, assisting her septuagenarian extremities with an antique looking umbrella, of no color known to this life. It was of a 'flabby habit of waist, and seemed to be in need of stays, looking as if it had served the old dame for long years as a cupboard at home, as a carpet-bag abroad.'

"So feeble a person should not be out in such slippery weather unattended; ** people should exercise common prudence. One who has poor sight should take greater care in walking the streets than one in full enjoyment of her faculties.††

"I fancy the least obstacle or hole would upset her," said Tom.

"And if she did stumble over a small impediment she could not sue the city for damages. So the court held where a man fell over the hinge of a trap-door projecting a couple of inches above the sidewalk in a village.‡‡ But the degree of repair in which the walks must be kept depends considerably upon the locality; one may reasonably expect better pavements in a city than in a village; and so in Boston where an iron box four inches square, set in a sidewalk by a gas company, had a rim projected an inch above the level, the city was held responsible for injuries caused by it.¶¶

* *Shepherd et ux v. Chelsea*, 4 Allen 13; *Hutchinson v. Concord*, 41 Vt. 271; *Ray v. Manchester*, 46 N. H. 59.

† *Hizon v. Lowell*, 13 Gray 49; *Barber v. Roxbury*, 11 Allen 320; *Hewison v. New Haven*, 34 Conn. 142.

** *City of Providence v. Clapp*, 17 How. 168.

¶ *Merrill v. Hampden*, 26 Me. 234.

§ *Ringland v. Toronto*, 23 C. P. Ont. 93.

¶ Ibid.

** *Stanton v. Springfield*, 12 Allen 566; *Hutchins v. Boston*, 10 Allen 571 n.

†† *Wilson v. Charlestown*, 8 Allen 137.

* *City of Providence v. Clapp*, 17 How. 168; *Church v. Cherryfield*, 33 Me. 460.

† *Hizon v. Lowell*, 13 Gray 59.

‡ *Shipley v. Fifty Associates*, 101 Mass 251; *S. C.* 106 Mass. 194.

¶ *Drake v. Lowell*, 13 Met. 292.

§ *Tarry v. Ashton*, L. R., 1 Q. B. D. 814.

¶ *Byrne v. Boadle*, 2 H. & C. 722; *Randleston v. Murray*, 8 Ad. & E. 109.

** *Davenport v. Ruckman*, 37 N. Y. 568.

¶ *Winn v. Lowell*, 1 Allen 180.

¶¶ *Ray v. Patrobia*, 24 C. P. Ont. 73.

¶¶ *Loan v. Boston*, 106 Mass. 450; *Bacon v. Boston*, 3 Cush. 174.