always a safe criterion. Instances have occurred, and may occur again in which nine hundred and ninety-nine persons could pass at any hour of the day or night with safety, while the one-thousandth would find dangers insurmountable. Litigation followed by a verdict and costs against a municipality, all because one man in a thousand is careless, and evidence for the plaintiff is not wanting to establish a case in the majority of such cases.

It was held in the case of Hull v. Richmond, that the nature of the country, the character of the roads and the care usually exercised by municipalities, in reference to roads must all be taken into consideration. In the case of Caswell v. St. Mary's Plank Road Company, Justice Wilson said it must be a question of fact altogether for a jury to say whether the place alleged to be out of repair is dangerous, and if so from what cause, and if from a natural cause or process, whether the persons liable to repair the road could reasonably and conveniently, as regards expenditure and labor, have made the road safe for use.

In the matter of liability of municipalities regard is held by our courts, for the decisions given both in England and the United States, and are quoted. Prominent among cases that have been quoted I will cite the case of Hewson v. New Haven, Conn. It was held that any object in, upon or near the travelled path, which would necessarily obstruct or hinder one in the use of the road, for the purpose of travelling thereon, or which from its nature and position would be likely to produce that result, would generally constitute a defect in the highway.

In the case of Sherwood v. Hamilton, W. C. Q. B., reports 410, It was held that should a railing or other barrier be necessary to the safety of passengers, it may be held to be the duty of the corporation to provide the same.

In the spring of 1877 the case of Lucas v. Township of Moore, reported in 42 Q. B., reports page 334, was tried, and a verdict of $2,500 was given against the township. The complaint was that the township caused and permitted a certain ditch to be dug on the public highway, and negligently left the same unsecured. The case was appealed to the Court of Appeal. That Court decided that the trial judge had erred, and a new trial was granted, which found for the plaintiff, but not for so large an amount.

Although non-repair may be said to mean any defect that would be likely to be dangerous to the travelling public, the circumstances most certainly should be taken into consideration. In the case of Stewart v. Woodstock and Huron Road Company, the trial judge held that there is no such thing as an absolute right against the acts of God and the process of nature, but even in the case of snow and ice it is for a jury to say under the particular circumstances of the place, season, etc., if the non-removal is non-repair, see W. C. Q. B. report 427. If the case of Caswell v. St. Mary's Plank Road Company is still held good, and to my mind nothing could be more reasonable than to take into full consideration the natural cause or process, whether the persons liable to repair the road could reasonably and conveniently have done so, then the question of repair or non-repair is a matter of fact, which a judicial enquiry alone can establish.

It was held by Hunt, C. Y., in the case of Davenport v. Rackman, 37 N. Y., 573 law report. The streets and sidewalks are for all conditions of people, and all have the right in using them to assume that they are in good condition, and to regulate their conduct upon that assumption. A person may walk or drive in the darkness of the night, relying upon the blief that the corporation has performed its duty, and that the street or the walk is in a safe condition. He walks by faith justified by law, and if his faith is unfounded, and he suffers an injury, the party in fault must respond in damages.

Municipal corporations are, as it were, themselves the owners of highways, and on this principal bound to keep them in repair. They have not only the duty thrown expressly upon them of keeping highways in repair, but have all necessary powers given them for enabling them to perform that duty. The corporation must at its peril answer for the consequence of the duty not being performed. The negligence of the officers or servants is no answer. (See Colbeck, vs. Brantford, 21, W. C. Q. B., decisions 276.

Nor is it any excuse that the alleged defect arose from necessary repairs of the highway, the travelling public having the right to assume that the roads are in a good and safe condition, are entitled to notice or warning to the contrary, when the roads are not safe. Neglect is the want of care, want of ordinary care is the true measure of liability. (See Johnston v. Charleston, 16, American law reports, 721.) A corporate body never can either take care, or neglect to take care, except through its servants. If such a body by its servants have means of knowledge that a highway is unfit for travel, and are negligently ignorant of its state. They are guilty of negligence. See Adair v. Kingston, W.C.C.P., 126. Also Sherwood v. Hamilton, 37, W. C. Q. B., reports 410.

It is no defence that proper overseers or commissioners were appointed, and given means and authority to keep the roads in good order. Such defence only admits further instances of neglect. See Robinson in Colbeck v. Brantford, 21, W. C. Q. B. reports 276.

In the case Horton v. Ipswick, Massachusetts Law Report 486, Mr. Justice Nelson, in delivering judgment, said, "The just rule of responsibility, and the one we think prescribed by the statutes, whether the obstruction be by snow or any other material, is removal or abatement necessary, so as to render the highway, street or sidewalks at all times safe and convenient, regard being had to its locality and use." Courts have held, and may again hold, that a pile of stones, a stick of timber, logs, a tent, a steam roller, pole, posts, holes or excavations, loose plank, projections or other inequalities of surface, any object upon or near the travelled way, which in its nature is calculated to frighten horses of ordinary gentleness, may be held under some circumstances to constitute a defect in the way itself. And we may add piles of brush, overhanging tree-tops, lumber piles, milk stands and cans, threshing and other engines set on the roadside, or any other material or substance, which may under some circumstances cause damage, would no doubt be held to be a defect in the highway itself.

Instances are numerous. The township of Bayham has been called upon to respond to a judgment for $3,000, for allowing a milk stand on the highway. The township of Dereham was required to pay $1,000 and costs for allowing an open ditch on the roadside to remain unprotected. The township of Euphemia was held for $5,000 and costs for allowing a small channel, caused by water flowing across the road to exist without repair. The towns of Ingersoll and Woodstock have also had their experience with claims for damage or injury sustained. In view of the fact that our courts have largely held that negligence is evidence of liability, that ignorance cannot be excused, and that fitness for the discharge of the nesessary duties are implied, when selections are made by the ratepayers of persons to fill the various offices. Although this remark is irrelevant to the subject, I will say that I am of opinion that our statute labor system is responsible for much that otherwise could be avoided. When roads in one municipality are fashioned after the ideas of seventy-five pathmasters, and neglected more or less by seventy-five overseers, it is really a wonder that so few accidents happen, and reflects great credit upon the travelling public for their care while using the public roads.

We may see in the cases quoted, and others that occur, that the chances of setting up a successful defence is very narrow. The conditions of our highways, are so far from meeting the requirements laid down, and the tendency of residents generally is inclined towards making the highways a dumping ground for the refuse from neighboring farms, that it cannot be wondered at that courts hold strong and decided opinions respecting the maintenance of highways. The means of preserving and maintaining are placed at the command of municipal corporations. Public safety is the standard laid down; unceasing vigilance is the service demanded, and when municipalities fail to provide the safety or to render the service, the penalty is sure.

Again thanking you for your kind hearing, I will leave the question with you, believing that advanced ideas and improved modes will be the sure result of passing our convictions from mind to mind, until we aquire a fair knowledge of our duties and liabilities.

Dominion Franchise and Voters' Lists.

The clerk of the township of Turnberry writes that his experience in transmitting a copy of voters' list to the clerk of the Crown in Chancery, Ottawa, has been entirely different from that of the clerk of North Toronto, referred to in last issue. The following is a copy of reply received:

Ottawa, September 2, 1898.

John Burgess, Esq., Clerk Township of Turnberry, Bluevale, Huron:

DEAR SIR—I beg leave to acknowledge receipt of Voters' List for the Township of Turnberry.

Yours truly,

(Signed) SAMUEL E. ST. O. CHAPLEAU.

In transmitting the list Mr. Burgess followed the directions given in the August number of THE MUNICIPAL WORLD, and enclosed his account.

All clerks should forward copies of their lists when finally certified by the Judge, and establish a precedent which will insure their acceptance in future years.

The Ottawa authorities were probably not aware at first that the county judges, clerks of the peace and municipal clerks are equally custodians of the Ontario voters' lists and that extra printed copies (revised) can only be obtained from the municipal clerk.

Mr. Craig, clerk of Strathroy, writes urging united action on the part of all clerks, through their representatives in the House of Commons, to secure acceptance of the lists. He also refers to the practice of procuring copies of the lists for provincial elections, from clerks of the peace, and suggests that the 750 municipal clerks of the Province are entitled to more consideration.

"I hope you appreciate the fact, sir, that in marrying my daughter you marry a large-hearted, generous girl?" "I do, sir"—with emotion—"and I hope she inherits those qualities from her father."

Hubby—"And what did you think of the play?" Wifey—"Oh, John, it was simply superb!—I was struck dumb—I—" Hubby—"Ah, bravo! You must go again and take your mother."