

people" and corporations carrying on large undertakings in the winter, and with this state of affairs to cope with, the machinery of the Municipal Act gives ample powers to overcome difficulties of this kind, and the question of expense is no excuse.

11. It was incumbent upon the defendants here (and is incumbent and compulsory on all municipalities) to use and adopt all modern means and methods to make the public highway at all times—day and night—reasonably safe for persons using it with ordinary care to go and come with the reasonable expectation of "no accident;" otherwise they are liable to pay damages for negligently permitting such highway to be out of repair. Courts have held that the want of a railing, milk stands, telegraph poles, overhanging branches of trees, large ruts, a heap of dirt, or a stump in the highway, constitute want of repair within the meaning of the statute, and, under the circumstances detailed here, I fail to understand by what process of reasoning a pitch hole or snow bank can be construed any the less dangerous.

The remarks of the Chief Justice of Ontario in the case of *Hogg v. Township of Brooke*, 7 O. L. R. 273, 3 O. W. R. 120, are especially applicable to this case. On p. 281 he says: "The Municipal Act, which obliges them to keep their highways in repair, and renders them civilly responsible for all damages sustained by any person by reason of default in observing the statute, also enables them to make provision for the making and keeping open of township roads during the season of sleighing in each year, and for providing for the application of so much of the commutation of the statute labour fund as may be necessary for keeping open such roads. Again, by R. S. O. 1897 ch. 240, every township is enabled to require owners or occupants of lands bordering on a highway to take down, alter, or remove any fence found to cause an accumulation of snow or drifts so as to impede or obstruct the travel on the public highway or any part thereof; and a township is also empowered to erect snow fences on lands lying along any road or public highway in or adjoining the township. These provisions shew the mind of the legislature to be favourable to the maintenance of open highways in a condition to be readily and safely travelled upon during the winter as well as all other seasons of the year. And it may fairly be presumed that it was supposed that in placing these powers in the hands of the municipalities, they would be brought into requisition when occasion