

QUEEN'S BENCH DIVISION,
Before JUSTICES MATHEW AND CHARLES.

SAUNDERS *v.* THE HOLBORN DISTRICT BOARD OF WORKS.

(*L. T. Rep.*, Vol. 71, 519.)

A penalty is provided by the London Public Health Act for non-performance of certain statutory duties as to cleansing the streets, and it was held that an action for special damage to an individual was not maintainable.

On the 8th January, 1894, the plaintiff slipped on some frozen snow lying on the pavement, and she alleged she had suffered special damage, spraining in fact her wrist, and that the sprain interfered with her duties as a nurse. She brought an action in the County Court, but the County Court Judge gave as his opinion that the intention of the legislature was that the penalty imposed by the Act should be the only remedy for the failure of the sanitary authority to perform their statutory duty, and nonsuited the plaintiff. The plaintiff appealed.

The case is sufficiently explained by the judgment.

MR. JUSTICE MATHEW: I am of opinion that this appeal should be dismissed. The action was brought to recover damages for injuries alleged to have been sustained by the plaintiff through the failure of the defendants to discharge their statutory duty of removing snow and ice from the footways over which the plaintiff was passing. It was said that under the Act of 1891 the duty which had been previously imposed upon each householder to clear away the snow and ice in front of the house had been imposed upon the defendants, and that therefore they were liable. Now the terms of the Section are these (His Lordship read Section 29 P. II. (*Lond.*) Act, 1891). Those are the obligations created by the statute in this public body, and it is said upon the authority of "*Couch v. Steel*" (3 E. & B. 402), and "*Hartnell v. the Ryde Commissioners*" (8 *L. T. Rep.* 74), which are still treated by the learned counsel for the plaintiff as having some vitality in them, that his client is entitled to maintain this action. Relying upon these cases, little credit is given by him to the subsequent decisions beginning with the well-known case of "*Atkinson v. Newcastle and Gateshead Water Company*" (36 *L. T. Rep.* 76). That case has been followed by the case in the House of Lords of "*Cowley v. the Newmarket Board*" (67 *L. T. Rep.* 486), and by the more recent decision of the Judicial Committee of the Privy Council in the municipality of "*Pictou v. Geldert*" (69 *L. T. Rep.* 510). Those cases condemn in terms the cases of "*Couch v. Steel*" and "*Hartnell v. the Ryde Commissioners*." It is quite plain that the result of those decisions with reference to the obligations imposed upon bodies of this kind by Act of Parliament, is that unless the intention of the legislature is clearly expressed, that there shall be a liability to an action for default in the performance of a statutory duty no action shall lie. Upon looking at this statute it is clear there is no intention that any such liability shall be imposed on the defendants. I have read the Section, and in case of non-performance

of the duties created by the Section, there is imposed a penalty not to exceed £20, to be recovered in the manner pointed out by the Act. That is the sole liability imposed by the statute upon the defendants, and why should we infer that there is in addition a liability to an action for damages. By the old statute before it was repealed there was no liability upon the local authority to clear away snow or ice, and no such action would lie against the inhabitants of the district in reference to such a matter. Why, then, should it be said that this statute creates the liability? It seems to me that the intention of the legislature must have effect given to it according to the language used, namely, that the local authority shall be bound to do what the statute says it is bound to do, and that the consequence of not doing it shall be the liability pointed out by the Act, and no further liability. If we adopted any other construction we should be putting upon the locality an obligation which does not exist at common law, and for which there is no statutory provision.

Mr. JUSTICE CHARLES concurred. Appeal dismissed.

MEETINGS HELD OCTOBER TO DECEMBER, 1894.

SESSIONAL MEETINGS.

A Meeting was held on December 12th, at 8 p.m., when a discussion was opened by George Blundell Longstaff, M.A., M.D., F.R.C.P., on "The Sanitary Aspects of the London Building Act, 1894." About 200 Members, Associates, and Visitors attended this meeting. The discussion will be published in Part I., Vol. XVI.

LECTURES AND DEMONSTRATIONS TO SANITARY OFFICERS, LONDON.

The Eighteenth Course consisting of 21 Lectures and 13 Practical Demonstrations and visits of inspection to trade premises, Refuse Disposal Works, commenced on October 17th and ended on December 3rd. A list of these is given in Part III., Vol. XV. 112 Students entered their names for this course.

LIVERPOOL.

A course of 12 Lectures were given in conjunction with the Technical Instruction Committee of the Corporation of Liverpool, commencing September 29th and ended December 15th. 100 Students entered their names for this course. In connection with these Lectures arrangements were made for inspection and demonstrations for the students at the following places and works:—

Lodging Houses.
Disinfecting Stations.
Cellar Dwellings.
Lairages.
Infectious Hospitals.
Baths.

Wash-houses.
Mortuary.
Princes Dock.
Artizans and Labourers' Dwellings.
Crematorium.