THE CITY OF VANCOUVER (DEFENDANT) ..... APPELLANT;

AND

WILLIAM CUMMINGS (PLAINTIFF) .. RESPONDENT.

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*Feb. 23.
*March 21.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA.

Municipal corporation—Repair of highways—Statutory duty—"Unfenced trap" in sidewalk—Misfeasance—Actionable negligence—Notice—Knowledge—Personal injuries—Liability of corporation—Evidence—Findings of jury—"Res ipsa loquitur."

Where a municipal corporation is liable for damages sustained by reason of negligent nonfeasance of the statutory duty imposed upon it to maintain its highways in good repair, the questions of notice or knowledge of the defects do not arise. There is a presumption, in such cases, against the municipal corporation and upon it lies the onus of adducing positive evidence in rebuttal; it is not sufficient to shew that the existence of the defects were not known by the corporation officials. *Mersey Docks and Harbour Trustees* v. *Gibbs* (L.R. 1 H.L. 93), applied; *City of Vancouver* v. *McPhalen* (45 Can. S.C.R. 194) and *McClelland* v. *Manchester Corporation* ((1912) 1 K.B. 118) referred to. Davies and Anglin, JJ., contra.

An unprotected opening in the sidewalk of one of the principal streets of the city, having the appearance of being recently made for some purposes in connection with the laying of gas-pipes, was permitted to remain without proper repair during most of the day, and, at about four o'clock in the afternoon, the plaintiff's injuries were sustained by stepping into the hole while making use of the sidewalk.

Held, affirming the judgment appealed from (1 West. Weekly Rep. 31; 19 W.L.R. 322), Davies and Anglin JJ., dissenting, that evidence of these facts made out a proper case for submission to the jury, and upon which they could return findings of breach of statutory duty and misfeasance on the part of the municipal corporation.

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*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Anglin and Brodeur JJ.

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APPEAL from the judgment of the Court of Appeal for British Columbia (1), affirming the judgment of Murphy, J., at the trial, by which the plaintiff's action was maintained with costs.

In the circumstances stated in the head-note and more fully referred to in the judgment now reported, the plaintiff, on the findings of the jury, recovered a judgment for $6,000 damages, and this judgment was affirmed by the judgment appealed from. The principal contentions on behalf of the appellant were that there was no evidence to go to the jury in respect of the opening in the sidewalk having been made by or with the consent of the municipal authorities or as to the time it had been there, and that, during the course of the trial, some of the jurymen improperly took a view of the locus and, no doubt, treated what they saw there as evidence.

C. W. Craig, for the appellant.

J. Edward Bird, for the respondent.

THE CHIEF JUSTICE.—I agree with Mr. Justice Idington. The highway was under the control of the appellant corporation subject to a statutory duty to keep it in repair. *City of Vancouver* v. *McPhalen* (2). It was for the jury to say whether that highway was out of repair by reason of some positive act done by the corporation, its officers, servants and others acting under its authority and whether or not the corporation was negligent. There was evidence upon which the case could be left to the jury upon both

(1) 1 West. Weekly Rep. 31; 19 W.L.R. 322.

(2) 45 Can. S.C.R. 194.

points. Assuming, as argued here, that the hole which caused the accident might have been made without the knowledge or consent of the city in view of the duty to repair which is imposed in absolute terms by the statute, the burden of explanation was on the appellants and they have not in any way attempted to meet it. I cannot think, in any event, that any authority given by the legislature to a gas or water company to break up the streets was intended to relieve the municipality from the obligation to maintain them in a safe condition. The right of the company to open the streets was subject to the consent of the corporation and the latter was responsible for any act of the company which might cause the streets to be out of repair.

It is not necessary to say whether the company might not also be made liable. But there is nothing in the acts to which my attention has been drawn which relieves the municipality from the obligation to fulfil its duty with respect to the maintenance of the highways in a proper state of repair.

I would dismiss this appeal with costs.

DAVIES J. (dissenting) agreed with Anglin J.

IDINGTON J.—Each of the parties hereto seems to have been desirous of trying how little evidence may consistently, with success, on either side, be given in an accident case founded on the liability of the appellant, as a municipal corporation, for the repair of its streets.

It is beyond dispute that the accident in question took place in clear sunlight, at four o'clock in the afternoon, on the cement sidewalk in a very busy

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part of the busiest street in the city, by reason of the respondent's foot getting caught in a hole in the sidewalk and that as the result thereof the respondent has been rendered a cripple.

It is quite clear that, at a point two feet four inches from the curb, the hole had been cut of fourteen inches square to enable someone to set in place therein a metal fixture of some kind, probably to connect with some gas or water system as a means of shutting off or letting on the gas or water to an adjacent building.

This fixture as described was of that nature, and not big enough to fill the hole as cut, but, when set therein, left a space large enough to so receive respondent's foot, that he got caught, tripped up, and had some bones broken.

This space, it can clearly be inferred from the evidence, had been partly refilled with clay and odd bits of broken cement by the party who had done the job. The packing had (as we learn because *res ipse loquîtur,* and we can well believe it) never been properly done and the street restored by re-cementing it to a safe condition for travelling thereon. Indeed it was palpably an "unfenced trap."

There is no direct evidence when or by whom or by whose direction or authorization it was done.

It is urged for appellant that it is not shewn to have had notice or knowledge of what had been done.

It may, however, be fairly inferred, from what we are told, that it would have been quite impossible to have done the job during that day without attracting the attention of those entrusted, or who should have been entrusted, by the appellant, with the police

and other official oversight guarding that street, in the way that must, in such regards, be established in such communities to enforce the law and protect the public and the municipality's own property.

In a less degree it may also be a fair inference to draw that these officials, or some of them, could not have discharged their duty without observing and calling attention to the matter if the job had been done the night before and so left unguarded all the day of the accident up to four o'clock in the afternoon.

This statute (the City Charter), as it stood when the accident occurred which gave rise to the case of *McPhalen* v. *City of Vancouver*(1), has been amended since the decision in that case, and now reads so that no doubt can exist of the intention of the legislature to give a right of action to those suffering from the municipality's default respecting its duty to repair.

I need not repeat here all I said in that case relative to the liability of a party neglecting an imperative duty imposed upon him by any statute intended to protect and give cause of action to any one suffering by reason of such default. I may refer to the judgment of Mr. Justice Lush in *McClelland* v. *Manchester Corporation*(2), of which report has reached here since, as to a large extent bearing out the view we had taken.

Referring to the views I and others expressed in the *McPhalen Case*(3), and applying the principles set forth therein, and the amendment to the statute, is it not clear that, on such a statute as amended,

(1) 15 B.C. Rep. 367. (2) (1912) 1 K.B. 118, at p. 133.
(3) 45 Can. S.C.R. 194.

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when the facts demonstrate an actual want of repair, causing damage, an action is *primâ facie* of necessity shewn to be well founded, because the statute has not been duly observed or complied with, and hence the party in default called upon to offer some excuse?

Primâ facie the duty is imperatively obligatory and its consequences can only be got rid of by some valid excuse for a failure to discharge the duty so imposed.

This statute is just the same as any other in that regard. The obligation is not qualified by the statute itself in any way. The same principles of law must be adhered to in applying it as in applying other statutes imposing any like duty to repair.

Notice to, or knowledge on the part of, the authorities of a want of repair never formed part of the statute.

American and Ontario cases are cited to shew that some such notice or knowledge of non-repair must be proven by a plaintiff claiming to recover by virtue of the statute. I do not say that no such cases exist as would carry the doctrine of notice or knowledge thus far, for there has been a good deal of confusion of thought in that regard, but no case cited to us from the Ontario authorities carries it so far. Numerous *dicta* can be found apparently doing so. I think we must discard them and also such cases, if any, as carry the doctrine so far.

I will presently consider the question where I think notice or knowledge may become an operative factor in these accident cases. Beyond the line I will indicate I think the doctrine questionable, and, as the late Mr. Beven pointed out, had not found a place in English decisions. Its history helps to shew how it

came about in the United States and Ontario so far as really existent.

When the road-making and the road-repairing duties in America were imposed on municipalities the very conditions of the country required that, in measuring the extent of that duty, due regard should be had thereto, and the variations, especially as to the kind of road, the state of repair, and the superintendence which might be necessary in one place and could not be expected or exacted in another under entirely different conditions.

I suspect the element of notice came to be introduced in connection therewith. Indeed we find the statutes of Maine and Massachusetts, and possibly others states expressly required that municipalities so charged with the duty, should, as a condition of liability, have had reasonable notice of the condition complained of, and that notice was by the courts imputed to them occasionally from very slight circumstances.

In Old Canada (as to that part known then as Upper Canada, now Ontario) the first step taken to render municipalities therein responsible, was by 12 Vict. ch. 81, sec. 190, transferring the powers and duties of justices in sessions, with respect to highways, to the municipal councils of the county.

The next session 13 & 14 Vict. ch. 15, sec. 1, cities and towns were expressly charged with the duty to repair and rendered liable criminally as well as civilly for default.

The later enactment (in one section, indeed in one sentence, which applied to all municipalities) that the non-observance of the duty of repair legislatively cre-

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ated thereby, should be held to be a misdemeanour punishable by fine and further render the municipality responsible for all damages sustained by any person by reason of such default, tended to make courts look at the criminal law liability as the boundary of the civil liability.

Though this was not uniformly agreed to, and the statute later on modified, I suspect the idea of notice or knowledge as part of what might reasonably be required to found a criminal prosecution, became the more readily importable into cases involving only civil liability, than it would have been had the statute been originally framed as the one in question here without expressly giving any remedy.

For a long time the Ontario courts had thus a statute to interpret which is capable of being looked at from a point of view that does not need to be taken relative to this one.

Then again the question constantly arose as to whether or not there was a common law liability independently of the statute, and in seeking for such principles of common law as might create a liability on the part of the municipality as the owner of the road or having jurisdiction over it, in settling the relations thereby created between the municipality and persons it had invited, as it were, to use the road, the questions of notice and knowledge became more closely relevant to the consideration of what should determine the question of liability, than in relation to the simpler question of whether or not a plain statute had been violated and its duties neglected.

So far as the Ontario cases have any bearing on the question, I think this history and these several

considerations must be borne in mind in using such cases. It has been usual also for the purpose of emphasizing the claim and possibly affecting damages to shew gross negligence by giving evidence of long existence of the non-repair. Such prudence, however, is not to be confounded with the question of notice. I may say, however, that the Ontario cases cited to us do not go the length which is contended for herein.

The case of *Castor* v. *Township of Uxbridge*(1), relied on is no authority for the proposition. It was disposed of on the ground of contributory negligence of the plaintiff. No case is an authority binding any one but for, or in respect of, the point of law necessarily decided for the determination of the case.

True, the late Chief Justice Harrison, who was a great authority on municipal law, made, as was his wont, in his opinion in that case, an exhaustive collection of all the cases bearing upon every possible view that the case suggested. In this examination relying upon American authorities alone, he seems to lay down, at foot of page 127, that there is no presumption.

It is to be observed that the case was one arising out of the clear wrongdoing of someone who had no official relation with the municipality or colour of right to do what he had done. It was because the case was of that class and had never, till then, arisen for decision in a superior court that the Chief Justice took such pains.

It is, if I may be permitted to say so, that kind of case alone which can properly give rise to the question of notice. When it is sought to apply the doc-

(1) 39 U.C.Q.B. 113.

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trine to the cases where the road had merely worn out of repair, I think it is entirely misplaced.

No one would think of saying that when the forces of nature have suddenly destroyed or put out of repair a road, or someone has maliciously or negligently wrought the same result, and an accident has taken place as a result thereof, that the municipality must be held as insurers and so, regardless of all opportunity to have repaired the road so destroyed, be cast in damages.

It generally happens in the stating of such a case to any court, that this is its nature and the question of notice or knowledge or opportunity thereof incidentally arises.

I am, despite *dicta* to the contrary, prepared to hold that, unless in some such case as I have suggested, the question of notice or knowledge does not arise, and that in all cases where the accident has arisen from the mere wearing out, or apparent wearing out, or imperfect repair of the road, there arises upon evidence of accident caused thereby, a presumption without evidence of notice that the duty relative to repair has been neglected.

The municipality is bound to take every reasonable means through its overseeing officers and otherwise, to become acquainted with such possible occurrences, and if it has done so can possibly answer the presumption.

It is beyond my province here to further define the limits of that presumption; I am only concerned with giving due consideration to arguments pressed upon us and rested upon the authorities which I have referred to.

In the case of *Kearney* v. *London, Brighton and South Coast Railway Co.* (1), where a railway company was in duty bound to keep in repair a bridge over a highway, a brick fell from it on a passenger below just after a train had passed, and he was held entitled to damages and had no need to shew more than these facts. The decision was upheld in the Exchequer Chamber. The duty was merely to keep in repair. *Res ipsa loquitur* was applied. Why should there be one rule of law as to the evidence needed or presumption arising from evidence in one class of cases involving a breach of duty to repair and another rule for other classes? One would suppose it would if anything be more stringently applied in the case of a breach of a plain statutory duty than in the other. I see no difference. I do, however, see how as a case develops and becomes complicated, other considerations may arise.

In this case the sidewalk was found in the condition described. It clearly was not the result of malice but of work, for a useful purpose, presumably, done by the appellant or someone acting under its express authority.

The charter of appellant contains the following clause:—

> 218. Every public street, road, square, lane, bridge or other highway in the city shall be vested in the city (subject to any right in the soil which the individuals who laid out such road, street, bridge or highway may have reserved), and such public street, road, square, lane or highway shall not be interfered with in any way or manner whatsoever, by excavation or otherwise, by any street railway, gas or waterworks company, or any companies or by any company or companies that may hereafter be incorporated, or any other person or persons whomsoever, except having first made application and received the permission of the city engineer in writing.

(1) L.R. 5 Q.B. 411.

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Let it be observed that there is not a word of evidence shewing either gas or waterworks to exist in or be operated in the city. All the reference to such works is that the fixture set in the walk had the appearance of being something put there "for waterworks or gas or whatever it is."

For aught we know the city may own and have in operation both classes of such works.

We are referred to an Act incorporating a gas company many years before but whether it ever got organized or did anything or appeared any place but upon paper we are not told in evidence. What right could the court have before submitting the case to the jury to presume such existed?

In the face of the above quoted stringent provisions of section 218, is it not asking too much to permit the imagination such free scope as to allow it to construct some basis for the theories as to others being liable for damages?

Sweep aside these products of the imagination and there is nothing to be fairly inferred from the facts save that the city may have placed the fixture where placed.

Even if there had been evidence of some such gas works, as provided in the charter got to establish such, I do not see how it could operate without the co-operation of the city authorities. And when so subject to the control of the city as above section 218 implies it must be, it became the duty of the city to protect its walks and those travelling thereon just as much and as efficiently in that regard as if it possessed the works. If it failed to make such stringent regulations and provide for such supervision by its own officers thereof, so as to protect the public and keep itself well in-

formed of all that was being done, then it was, and on this evidence may well be inferred to have been, negligent. It was for the jury to say.

In this connection regard may be had to the rule to be applied herein, laid down in the judgment of Blackburn J. in delivering the opinion of the judges in *Mersey Docks Trustees* v. *Gibbs*(1). In one of the cases and issues raised for consideration therein the contest was relative to the charge delivered to the jury which, according to the bill of exceptions tendered, raised this very issue of non-liability in the absence of knowledge on the part of the defendants there.

The Lord Chief Baron had charged the jury in effect that it was not necessary to prove knowledge on the part of the defendants or their servants of the unfit state of the docks and that proof that the defendants by their servants had the means of knowledge and were negligently ignorant of it, would entitle the plaintiffs to the verdict.

Do we need, even if knowledge or notice is to be an element, anything more in disposing of this case ?

Indeed, when the duty to know is considered and what the Lord Chancellor said, at page 122 of that case, holding that

> they must be held equally responsible if it was only through their culpable negligence that its existence was not known to them.

is fully appreciated, then the field for notice and knowledge to become an operative factor in these cases is an exceedingly narrow one. In any way I can look at this case I see no ground to support the appeal.

(1) L.R. 1 H.L. 93.

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I think the court below right in finding a case to submit to the jury that there had arisen a presumption on the evidence and inferences fairly deducible therefrom, which entitle the respondent to recover upon the statute if the jury chose to draw such inferences.

The appeal, I think, should be dismissed with costs.

ANGLIN J. (dissenting).—The plaintiff (respondent) was injured as the result of stepping into a hole in a concrete sidewalk in Hastings Street, which is said to be a principal thoroughfare in the City of Vancouver. The hole, which was of such a character that it is clear that it had been purposely cut in the concrete, was about 12 by 14 inches in size and of a depth of two or three feet. In it, extending from the bottom to the surface, was an iron pipe covered by a steel plate apparently about seven or eight inches square and level with the surface of the sidewalk. This steel plate appears not to have been in the centre of the hole. The plaintiff in testifying says that the space left on one side was greater than on the other. He adds that after the accident he noticed that the hole was filled up around the iron pipe with rough broken concrete and clay to within from five to seven inches of the sidewalk. There are also the following questions and answers in his evidence:—

Q. Now around this aperture or hole which was covered by this steel plate, there had been earth and rough pieces of concrete as you said thrown in there, tramped? A. Yes.

Q. Now what did you see within the next—a short time after this accident? A. I saw a gang of men working there across, taking up the pavement on the street going across to that iron structure they were building alongside the Woods Hotel.

Q. What were they doing with relation to this hole, what con-

nection had it with the hole? A. It was running from whatever this plate was for, *gas or water*, they were running from this plate across the street, had the blocks of cement up and digging down somewhere about two weeks later.

That its charter imposes upon the City of Vancouver a duty to maintain its streets in repair, a breach of which renders the city civilly liable to persons injured as a result thereof while lawfully using such streets has been settled by this court in *City of Vancouver* v. *McPhalen* (1). We are now called upon to determine whether evidence of the facts above stated made a case sufficient to submit to a jury upon issues whether there was (*a*) misfeasance on the part of the city rendering it civilly liable to the plaintiff, or (*b*) a breach of the city's duty to repair which entailed such liability.

The only reasonable inference upon the facts in evidence is that the hole in question was cut for the purpose of placing in it the iron pipe which was there at the time the plaintiff was injured. Upon the plaintiff's own evidence this pipe may have been either a gas pipe or a water pipe. The Vancouver Gas Company, incorporated in 1886, has a statutory right to open up the streets of a city for the purpose of placing its pipes in and under them. While wrong-doing is never to be assumed, and, therefore, the cutting of the hole in question should not, in the absence of any evidence warranting such a conclusion, be ascribed to the act of a wrong-doer, there is no sound basis on which a jury could say that it was cut by the municipal corporation or its servants and not by the gas company or its employees. It seems to me impossible

(1) 45 Can. S.C.R. 194.

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to say that a case was made for submission to a jury on the ground of misfeasance.

If then, in order to succeed, the plaintiff must make out such a case as would render the City of Vancouver liable although the hole had been cut by the gas company — and that, I think, is his situation — he must prove facts which, at least, *primâ facie* warrant an inference that the city neglected its duty to maintain the sidewalk in question in repair. The duty of repair is imposed by the statute in absolute terms. But, as is pointed out by Irving J.A., citing from Comyn's Digest, vol. 1, p. 405(*b*),

> An action upon the case does not lie where a man has not sufficient notice of his duty.

The duty to repair comes into existence only when a state of disrepair exists, and I find it very difficult, without holding the municipal corporation subject to the liability of an insurer, which the statute, in my opinion, was not intended to impose, *Mersey Docks Trustees* v. *Gibbs*(1), at pages 123-4, to reach the conclusion that, in the absence of proof of notice or of circumstances such that notice to the municipal corporation should be imputed(2), there has been neglect or breach of its duty to repair. There being no evidence of actual notice, the point for consideration seems to be whether such facts are disclosed as would warrant the trial judge in leaving it to a jury to say whether notice of the existence of the hole in question should be imputed to the defendants. From the fact that shortly afterwards the sidewalk was opened up for the purpose of making a connection with the pipe placed in the hole at which the plaintiff was injured,

(1) L.R. 1 H.L. 93.

(2) L.R. 1 H.L., at pp. 121-2.

the reasonable inference would seem to be that the hole itself had been recently made rather than that it had existed for some time. From the evidence that "there had been earth and rough pieces of concrete thrown in there, tramped," it would also appear to be a reasonable inference that after the hole had been cut and the pipe placed in position, it had been filled up with this material to the surface, because otherwise it could scarcely have been "tramped." This would appear to have been a temporary filling, inasmuch as the street was shortly afterwards again opened up for the purpose of making the connection to which the plaintiff refers. It is a well-known fact that, when a hole has been cut and filled up in this manner, the filling may appear to be, when first put in position, perfectly firm and solid; and yet, unless it has been exceedingly well packed or tamped, action of water will soon cause a sinking of the material below the surface. The surface itself may remain intact for a time, but eventually the arch which it forms will give way and the surface itself cave in. That this may have happened, and in all probability did happen in the present case, seems to me to be a fair conclusion from the evidence before us. There is nothing to shew that the filling in was negligently done; still less that any municipal inspector looking at the hole after it had been filled in would or should know that the surface would collapse before the work of connection should be proceeded with. While, therefore, it is true that under the amended charter of the city the gas company could probably open up the streets only with the permission of the city engineer, so that the latter would have notice of any such opening to be made, and assuming that it would be his duty, or that of civic

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officials under him, to see that any opening so made was properly closed up, I find nothing in the evidence which would warrant a finding of neglect of that duty. It is entirely consistent with the evidence that the filling of the hole may have fallen in only immediately before the plaintiff was injured, or it may be that it gave way under the pressure of his foot step and that up to that moment there was nothing to indicate that the hole as filled in constituted a source of danger to pedestrians. Neither is it possible to say that the temporary filling in of such a hole (pending the connection within a few days of the pipe which it contained with the other works contemplated and which would necessitate the re-opening of the hole) with rough concrete and clay properly packed and tamped, would be a negligent or improper thing. The duty of the municipality to maintain its streets in repair must receive a reasonable construction. It does not subject the city to the liabilities of an insurer. The duty of the city engineer who has notice of an opening being made by the gas company must also be dealt with reasonably. It does not, in my opinion, require him to keep an inspector constantly on watch while such an opening is being made and filled in. Upon the evidence, it is a fair inference that this hole was filled in, as would be the duty of the gas company if it had cut the hole, and that the filling had been carried to the surface and had been "tramped." There is no evidence which would warrant an inference that upon a proper inspection an official of the City Engineer's Department would have discovered that the filling was insufficient and that the hole as kept constituted a

menace to pedestrians. *Sanitary Commissioners of Gibralter* v. *Orfila*(1), at pages 411, 413.

We were much pressed by counsel for the respondents with the argument that, inasmuch as it was peculiarly within the knowledge of the municipality whether the hole in the sidewalk had or had not been cut by its officials or contractors, and how long it had existed as a source of danger to pedestrians, upon the plaintiff shewing that he had been injured by stepping into the hole the burden was shifted to the defendant to prove facts and circumstances which would exonerate it from responsibility, and that, in default of its producing such evidence, it should be presumed that facts and circumstances existed which rendered it liable. This argument simply means that proof of the existence of a hole establishes a case of *primâ facie* liability without any proof of neglect of duty, or of facts from which an inference might fairly be drawn of neglect of duty on the part of the municipal corporation. I am unable to accede to that contention. This is not a case of *res ipsa loquitur*. Moreover, the plaintiff could readily have shewn the character of the pipe in question and have thus cleared up the issue as to misfeasance. He was, in my opinion, bound to do so. Assuming that, in the absence of such evidence, the case must be dealt with on the basis that the hole was not cut by the municipality, the plaintiff would probably have experienced no serious difficulty in adducing some evidence — very little would have sufficed in view of the situation of the hole — to shew that it had been in a dangerous condition long enough, if that were the fact, to warrant a jury

(1) 15 App. Cas. 400.

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imputing notice to the defendant. At all events *ei qui affirmat, non ei qui negat, incumbit probatio.* In the absence of any evidence of the existence of facts or circumstances warranting an inference of negligence on the part of the defendant, it should not be called upon to prove the negative, viz., the non-existence of such facts or circumstances.

For the foregoing reasons I am, with great respect for the views of the majority of the Court of Appeal of British Columbia and of those of my learned brothers who have reached the contrary conclusion, of the opinion that a case had not been made proper for submission to a jury and that the plaintiff's action should have been dismissed. I would allow this appeal with costs in this court and in the Court of Appeal and would dismiss the action with costs.

BRODEUR J.—I am of the opinion that this appeal should be dismissed and I concur with the opinion of Mr. Justice Idington.

Appeal dismissed with costs.

Solicitor for the appellant: *J. G. Hay.*

Solicitors for the respondent: *MacNeill, Bird, Macdonald & Bayfield.*