
The State v. Hall.

description which Mr. Robinson gives of Knowlton's signature?

Both exceptions to the evidence must be overruled, and there must be

Judgment on the verdict.

THE STATE v. HALL.

The seventh section of chapter 113, Revised Statutes, applies to obstructions in the compact part of a city or village, and not to obstructions in a common highway leading from place to place.

THIS was a complaint to the Police Court of the city of Manchester, which alleged that the defendant, June 1, 1849, did, without necessity, place and throw, and cause to be placed and thrown into and upon a certain public street in Manchester, leading from the City Hall over Hanover Street to Candia Road, so called, being the extension of Hanover Street, and called the Farmer Road, in said Manchester, a large quantity, to wit: ten cartfull of stones, to the great impediment and hindrance of the free passage of said street, called the Farmer Road, aforesaid, and did suffer the same there to remain for the space of two hours, contrary to the form of the statute.

It came to the Court of Common Pleas on appeal, and was founded on section 7, chapter 113, of the Revised Statutes. The place where the stones were thrown, as alleged, is between two and three miles from the City Hall in Manchester, and the Farmer Road is one of the most travelled highways leading to the city of Manchester. It leads from the compact part of the city to Auburn, and there is no compact or thickly settled part of the city within a mile and a half or two miles of where the stones were thrown.

On this agreed state of facts, the Court directed a verdict for the respondent, with the agreement on his part, that the verdict

should be set aside, and a new trial granted, if the Court should so order.

William C. Clarke, for the State.

Daniel Clark and *Charles G. Atherton*, for the respondent.

PERLEY, J. Chapter 113 of the Revised Statutes, is entitled, "Of offences against the police of towns." The seventh section, on which this complaint is founded, enacts as follows: "No person shall, without necessity, place or leave, or cause to be placed or left, in any *street, lane, alley, or public place*, for two hours by day, or one hour by night, any sled, wheelbarrow, cart, dray, chaise, or other carriage; or any box, crate, cask, tub, or other vessel; or place or throw, or cause to be placed or thrown, into any such street, lane, alley, or public place, any manure, wood, lumber, dirt, or other matter, that may impede the passage of the same, and suffer the same to remain there two hours."

Offences against this chapter are punished by fine from one to ten dollars, or by imprisonment from five to thirty days; and if any minor under the age of fourteen years is convicted, his parent, master, or guardian, having notice of the trial, is made liable for the fine and costs, which may be recovered in an action of debt by the police officers in the name of the town.

We think this complaint cannot be maintained on the facts stated. The provision of the statute on which it is founded, can apply only to obstructions in the compact part of a city, or village, and were not intended to furnish a remedy for obstructions in common highways leading through the country from place to place. The language used to define the *place*, "street, lane," &c., would not in the usual acceptation of the terms, be understood to include a common highway. The obstructions enumerated in the statute are of the kind which most frequently impede the passage of a street in a city or village, and seldom obstruct a common road. And the time required to complete the offence, being one hour in some cases, and two hours in others, tends also to show that the nuisance meant to be redressed

is a temporary obstruction of a street, lane, or public place, in a city or village.

This view of the case is strengthened by the fact, that the enactment is found in the chapter relating to offences against the police of towns, by the nature of the punishment, and by the further circumstance, that a minor under fourteen years of age may be convicted of the offence, and his parent, master, or guardian, sued in debt by the police officers to recover the fine and costs.

Judgment on the verdict.