

## SOWTER v. TOWN OF GRAFTON.

It is not a sufficient compliance with the statute requiring notice to be given of an injury suffered on the highway, to send such notice by mail to the town-clerk.

CASE, for personal injuries from a defective highway. Facts agreed. The plaintiff sent by mail a notice of her injuries, &c., to the town-clerk, which was received, and the chairman of the selectmen being present the clerk gave him the notice, which he read and immediately returned to the clerk. This was the only notice given to the town. If the court are of the opinion that the notice was insufficient there is to be judgment for the defendants, otherwise the case is to stand for trial by the jury.

*G. W. Stone*, for the plaintiff.

*G. W. Murray*, for the defendants.

BINGHAM, J. The statute required the plaintiff to file her written statement, under oath, with the selectmen and town-clerk of Grafton, within ten days from the date of receiving the damage. Laws of 1885, c. 65, s. 1.

The evident intention of the legislature was to make the offices of the selectmen and town-clerk places in town where those interested could find the statutory statement. It is true that the statement is to be filed with the selectmen and the clerk, but this does not mean that it is to belong to them as individuals, but that, they filling these offices temporarily, the statement is to be left with them, as officers of the town, to be filed and preserved in their respective offices for the use of the town authorities and such others as may have occasion to use them. The fact that the chairman of the board of selectmen happened to be with the clerk at the time he received the statement by mail and that he gave it to the chairman, who read and immediately returned it to the clerk, was not a filing of the statement with the selectmen within the meaning of the statute.

*Judgment for the defendants by agreement.*

CLARK, J., did not sit: the others concurred.