

R. P. Amburgey,

Plaintiff.

-vs-

AUTHORITIES.

The Consolidation Coal Company,

Defendant.

Public Sidewalks privately constructed and owned but placed under the authority and control of the Town of Jenkins. The Consolidation Coal Company is not liable but the liability, if any, is that of the Town of Jenkins alone.

Town of Bromley v. Bodkin, 77 S.W. 696.

City of Midway v. Lloyd, 74 S.W. 195.

City of Madisonville v. Pemberton's Admr., 75 S.W. 229.

City of Covington v. Asman, 113 Ky. 608; s.c. 68 S.W. 646.

Bell v. City of Henderson, 74 S.W. 206.

Terrell v. Town of Bloomfield, 21 S.W. 1041 (& 20 S.W. 289.)

Bogard v. O'Brien, 20 S.W. 1097.

City of Henderson v. Reed, 62 S.W. 1039.

*City of Louisville v. Lambert, 116 S.W. 261.*

City of Lancaster v. Walter, 80 S.W. 189.

*City of Madisonville v. Stewart, 121 S.W. 421.*

Distinguish --

City of Covington v. Huber, 66 S.W. 619.

*City of Mayfield v. Angley, 122 S.W. 838; s.c. 135 Ky. 532.*

City of Covington v. Johnson, 69 S.W. 703.

*City of Louisville v. Hall, 91 S.W. 1133.*

*Ward v. Jefferson Coal Co., 116 S.W. 691.*

The owner here (Consol. Coal Co.) did not cause or create the alleged dangerous or defective condition. Same was permissive merely, not voluntary, as to the deft. There was, in fact, no active cause. The petition simply alleges -- "That the boards and timbers (of the sidewalk) had become rotten, broken and defective that one or more boards of same had become broken."

*Webster v. C. & O. Ry. Co., 105 S.W. 945.\**

For approved Instructions, see City of Wickliffe v. Moring, 68 S.W. 641.

For Powers of Cities and Towns of the Sixth Class in Kentucky, see Ky. Stats., Secs. 3660, 3704, sub-sec.6, sub-sec. 8; Sec. 3706, Sec. 3707, and, especially, Sec. 3709, in reference to public streets, sidewalks, etc.

*See - Court. v. Ill. Cent. R. Co., 138 Ky. 749; s.c. 129 S.W. 96.*

*Town of La Grange v. Overstreet, 141 Ky. 43; s.c. 132 S.W. 169.*