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Pleading--Time Within Which May Be Filed--Rules of Court Limiting Time

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tants of Holyoke, 105 Mass. 82; *Corbett v. City of Troy*, 53 Hun. 228, 6 N. Y. Supp. 381. They have also held that a ridge or ball of ice on a sidewalk is an actionable defect. *Abbott v. City of Springfield*, 210 S. W. 443 (Mo.). In a New York case where the plaintiff fell on a raised place in a sidewalk, which was caused by the root of a tree, and which was covered with ice, the court allowed a recovery. *Conklin v. City of Elmira*. 11 App. Div. 402, 42 N. Y. Supp. 518. If the proper construction of the West Virginia statute is to render defects in sidewalks, it is difficult to see why the walk in question was not "out of repair" within the meaning of that statute. —M. T. V.

PLEADING—TIME WITHIN WHICH MAY BE FILED—RULES OF COURT LIMITING TIME.—A defendant, who had already pleaded the general issue, at a subsequent term of court tendered a special plea and a notice of set-offs, less than five days before the case for trial on the docket, but more than five days before the case was actually called for trial. Because of a rule of court to the effect that "no pleadings, notices or counterclaims shall be filed in court, in any case, later than the fifth day before the day in which the case is set for trial on the docket, except pleas of the 'general issue' and 'general replication' . . . ," the trial court refused to permit such plea and notice to be filed. *Held*, The rule of court is valid and the trial court's interpretation of it correct. *Teter v. George*, 103 S. E. 275 (W. Va. 1920.)

For a discussion of this case, see NOTES, p. 77.

PUBLIC SERVICE CORPORATIONS—EXCUSES FOR NOT SERVING—OPERATION AT A LOSS CANNOT BE REQUIRED.—A lumber company owned a railway which was operated primarily as a logging road, but which did some business for third persons as a common carrier. When the lumber company had cut all of its timber, it discontinued operation of the railroad, which could no longer be operated except at a loss. The lumber company, however, was making a profit on its entire business. *Held*, The lumber company cannot be compelled to operate its railroad at a loss. *Brooks-Scanlon Co. v. Railroad Commission of Louisiana*, 40 Sup. Ct. Rep. 183 (1920).