HIGHWAYS—OBSTRUCTION—NEGLIGENCE—CONTRIBUTORY NEGLIGENCE.

Morris v. Mayor, Aldermen and Burgesses of the Borough of Luton.[1]

This case is another nail in the coffin of the doctrine of *Baker v. Longhurst*[2] where Scrutton L.J. laid down the dilemma that if a plaintiff collided with an unlighted obstruction " either he was going at a pace at which he could not stop within the limits of his vision, or if he could stop within the limits of his vision, he was not looking out. In either event, he was guilty of negligence." Lord Greene hoped that the suggested principle might rest peacefully in its grave in the future and not be resurrected with the idea that there is still some spark of life in it. He cited with approval the dictum of Lord Wright in *Tidy* v. *Battman*[3], that " no one case is exactly like another. . . . It is unfortunate that questions which are questions of fact alone should be confused by importing into them as principles of law a course of reasoning which has no doubt properly been applied in deciding other cases on other sets of facts." The view of Lord Wright has usually been accepted as laying down the law, but it is convenient to have the doctrine re-affirmed by a unanimous Court of Appeal.

The other point in the case concerned the duty of the municipal authority with regard to an unlighted air-raid shelter erected on the highway. No difficulty arose, as *Fisher v. Ruislip-Northwood Urban District Council*[4] had conclusively laid down the law.

1. [1946] 1 All E.R. 1 ; 62 T.L.R. 145.
2. [1933] 2 K.B. 461.
3. [1934] 1 K.B. 319, at p. 322.
4. [1945] K.B. 584.

A NOTE ON AUSTRALIAN PATENT[1] LAW.

The words " letters patent " derive from the Latin *literae patentes*, the form of the grant being that of an open letter to all who may read it and the term is the name for that chose in action which vests in a successful applicant or his assign a monopoly, granted of grace by the Crown, in the making, use and sale of an invented article. The Australian law is founded on the English, which has had a long and curious history. Patents were originally granted to encourage foreign craftsmen to bring their crafts to England ; the crafts were then " novel " only in England. The Stuarts attempted to raise money by granting to favourites monopolies in the sale of common articles ; see the *Case of Monopolies*.[2] The law began to take its modern shape in the Statute of Monopolies[3] which authorised the grant of a monopoly lasting fourteen years to the true and first inventor of " any manner of new manufacture "—a phrase repeated in the Commonwealth Patents Act 1903-35, s. 4. In the 18th century, the principle was established that the consideration for the grant is the

1. Oxford Dictionary provides optional pronunciation " patents " or " paytents " : it would seem that the former has the greater currency.
2. 11 Co. Rep. 84 1.
3. 21 James 1c.3 (1624).