

THE WASHINGTON-WAIVER.

SECTION ONE

LINDSAY, ONT., THURSDAY, APRIL 18 1912

PAGES 1 to 5

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Weekly Budget of News From Emily Metropolis

Omemee, April 8. — Miss Ina Hunt of the public school staff is spending her holidays with her mother in Dunville.

Captain H. Fee, of Lindsay, was in town on Friday.

Mr. Clifford Mulligan, of Toronto, is spending his holidays with his parents, Reeve and Mrs. Mulligan of King-st.

Mr. E. English has disposed of his property and barber business to the Messrs. Wilson who have taken charge. The new proprietors are determined to serve their many patrons in every detail of high class tonorial work and they solicit a call from all old customers of the shop and as many new ones as can conveniently patronize them.

Mr. J. A. Wylie returned to Toronto on Friday evening after spending the day with friends in town.

Great crowds of people journeyed by rail on Saturday to Peterboro and Lindsay.

Mr. John Murray of Peterboro is the guest of his parents, Mr. and Mrs. H. Murray of King-st.

Miss A. Thompson and Mr. Robert Thompson, of Toronto are holidaying at the home of their parents at Sturgeon-st.

Mrs. White and Master Willie are spending Easter with friends at Peterboro.

Mr. Gallagher of the Bank of Commerce staff, Peterboro, spent Easter with his Omemee friends.

Mr. S. H. Guelph, is the guest of Rev. H. and Mrs. Earle at the Rectory.

Mrs. (Rev.) J. H. Messmore of Fairbairn, U.P., India, arrived on Saturday. She has completed 50 years of mission work in the land of caste and has the distinction of being the first unmarried lady missionary sent to India by the M. E. Board of Missions of New York. During her stay in Omemee Mrs. Messmore will be the guest of her daughter Mrs. T. W. McLean.

The roads have been so bad that most of the visitors from the rural districts have come in on foot.

After an extended visit with friends in England, Ernest Rutherford has returned home. He reports a great deal of unrest and hard times owing to the strike.

Messrs. Bert Fee and C. Banks have gone west.

Mrs. T. Henderson, accompanied by her daughter, Gertie, and Miss Jewett have gone to the North-West for a visit.

A vaudeville company are putting on a fine show in Coronation Hall every evening this week. On Monday evening Bert Johnston, the great mystifier, held the cards.

Miss Gretta Mills has accepted a position with one of the leading millinery departments of Lindsay.

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Washburns Island May Boom as a Resort

Washburn's Island will boom, if reports are true, and that all the notes of people we hear of are going to build homes there, to be used during the summer season.

Ald. Neil Gray, one of Lindsay's leading contractors, has the contract from no less a person than Mr. Bishop, one of the leading men in

the employ of the T. Eason Co., Toronto, of building a commodious summer residence on the island as soon as it is possible to get at it. The painting and decorating inside and out will be done by that skilled artist, Mr. George McFadden, of town. Many other cottages, it is understood, will be built on the island at a later date.

NO MORE SILVER DOLLARS.
Ottawa, April 12. — The finance minister has decided not to use silver dollars for the present. The late government passed an act authorizing their issue. After looking into the situation Hon. W. T. White has decided that the time is not opportune for the issue. Coinage of five and ten dollar pieces will be provided with though they are not expected to replace paper money to any extent.

FAVOR CHURCH UNION.
The members and adherents of the Cambridge-st. Methodist church voted strongly in favor of church union, as is evident from the following summary:

For	Against	
Official board	29	9
Members of church over 18 years of age	307	34
Members of church under 18 years of age	29	4
Adherents	46	3

Ex-Warden Callan Not to Blame for Injuries Sustained by Mrs. Isaac in Jumping From Buggy When Horse was Scared by Auto

At the opening of the assizes Wednesday the petit jury brought in the following verdict: "That the accident was due to the frightening of the horse by the automobile; that there was no carelessness on the part of the defendant, Callan. The action was dismissed without costs."

It is understood that the defendant in the above case objected to the verdict as rendered, claiming a mistrial, that it did not settle the issues. The plaintiff will move for a new trial. The jury's finding came somewhat as a surprise to the audience.

The Spring Assizes opened Tuesday afternoon at the court house before Chancellor Boyd, Chief Justice, Toronto, there being a large attendance in the court room. The first case on the docket, that of Isaac vs. Callan, occupied the entire afternoon, court adjourning at 6.45 o'clock, at which time the Chief Justice charged the petit jury, requesting that they meet immediately afterwards in the jury room, come to a decision on the case and place the same in a sealed envelope, the same to be given to the court at this morning's session.

The case was a very interesting one, being an action for damages, the plaintiff, Mrs. Thos. Isaac, who resides near Fenelon Falls, having jumped from a buggy when the horse driven by her husband, became frightened at the approach of a motor car. Mrs. Isaac was entirely at fault for unnecessary jumping out, when she would have been quite safe in the rig; also claiming that Mr. Callan and party saw no rig in the road, and that Mr. Isaac must have driven into the bushes before the auto approached.

Messrs. Thos. Stewart and L. V. O'Connor appeared for the plaintiff, and the former made a weighty and forceful plea in which he contended that Mr. Callan was entirely to blame, that he had been attending to duties he could not have helped noticing the rig on one side and the unfortunate lady lying on the roadside at the opposite side of the road. The accident occurred on Nov. 28, 1910.

It was near seven o'clock when court adjourned to meet this morning, when the verdict above was brought in.

Mr. Isaac, husband of the injured woman, was the first witness called by the plaintiff lawyer, Mr. Thos. Stewart. Witness said he was a farmer. I saw Mr. Callan's motor and it contained Mr. Callan, Mr. Jackson, and two women. I did not see Callan in Fenelon Falls the day of the accident. I did not recognize the two women. I went to the Institute meeting at Fenelon Falls and left it at 20 minutes past four. I went to Mr. Burgoyne's store, where I met Mr. Fred Jones and had a ten minutes chat with him. I then met Mrs. Webster and later some women from the Women's Institute meeting and my wife and I started shortly afterwards for home, pretty close to five o'clock. We drove home along the lake shore road. Mr. Jones driving ahead of me as far as Sackville's crockers where I turned north on the Cobocok road for home. It is a very crooked road. We met Mr. Bedford and his daughter. We met Perrin's Creek. At this time it was getting dusk but there had been a snow fall. We met and passed Mr. Bedford and his daughter about ten rods from the creek and I spoke to Mr. Bedford. The auto was first heard by the horse which began to prance. My wife turned her head around and saw the auto coming. I also turned and yelled for the auto to stop. My wife said she was going to get out and she jumped to the right side of the road. There are trees and bushes on both sides of the road. Mr. Stewart—"Was there any alarm given?"

"No, sir! There was not and the speed of the auto never slackened."

Justice Boyd—"Could the people in the auto see your wife jump?"

"I could not see her. The auto was quite close up behind where she jumped. The auto lights were on, on front and rear. Mr. Callan was driving the machine. The buggy was right in the middle of the road when she jumped. I called for her to come as I was ahead of her and she did so very slowly, limping all the way. When she got to the buggy, she could not get in. She managed to crawl into the buggy, allowing her feet to hang out on the side. We travelled slowly because she kept telling me she was in pain. My son carried her into the house and we telephoned for the doctor. I would judge the auto was going at the rate of twenty miles an hour. Dr. Johnson came out and then sent for Dr. Graham. Mrs. Isaac was in bed constantly for twelve weeks, and it was several weeks later before she could sit up herself. The doctors reported a bone broken in the hip. She had not yet recovered, being lame, and is still suffering from the leg is now an inch and a quarter shorter than the other one. Previous to the accident her health was pretty good. She was in her 59th year when the accident occurred. The doctors' bill amounted to \$90-\$70 for Dr. Johnson and \$10 for Dr. Graham. She still uses a cane and broom when walking. The road where the accident occurred was quite narrow."

To Mr. McLaughlin Mrs. Isaac stated that she did not think her injuries were caused by the auto striking her. "I jumped out because the auto was coming, I was not a part of the horse."

Mr. McLaughlin—"If you had remained in the buggy you would have been all right."

REV. MR. BEDFORD.
Rev. Mr. Bedford, of Fenelon Falls, was next called by Lawyer Stewart. He stated in part that he was a Methodist minister and on the day of the accident he visited the home of Mr. Geo. Isaac, a brother of Mrs. Thos. Isaac. On the way home the buggy top was up, but the lamps on his rig were not lit. He met Mr. and Mrs. Thos. Isaac in their rig, and two minutes later met the auto. Mr. Isaac spoke to me but the minister did not speak to Mr. Isaac. I recognized him by voice, not by

sight. I cried out for the auto to stop as my horse ran into the fence and they stopped. I turned around as quickly as I could and ran the horse up a side road to let the auto pass."

To Mr. McLaughlin the witness stated that the auto was in sight very soon after passing Mr. Isaac—that it was a down grade. "They stopped just as soon as I asked them to."

MISS BEDFORD.
Miss Bedford, daughter of Rev. Mr. Bedford was the next witness called and corroborated the evidence of her father.

Barister Stewart did not call Mr. R. A. Callan but read a section of his evidence as given at the preliminary examination.

SAW AUTO PASS.
Mrs. Rhoda McFarlane next called stated in part to Mr. Stewart: "I remember the accident having been visiting Mrs. Brookshire and Mrs. Orr, and while at the latter place I saw an auto passing while looking out the window. It was between half past five and six o'clock. Mr. Callan was driving the auto, but I did not recognize anybody else in the rig. He was sitting on the left hand side of the car. I could not see whether the lights were burning or not."

RUFUS ISAAC
Mr. Rufus Isaac next called, stated that he was a son of the plaintiff, and remembers the day his mother was injured. He had carried his mother into the house. The auto passed some ten or fifteen minutes before his father and mother arrived home. No other auto had passed the same evening. He could not recognize the occupants of the auto. He was sitting on the left hand side of the rig when it was called to the witness stand that the chores were through by four-thirty. He could tell it was Callan's auto in the morning but not in the evening.

STRAPPED TO BOARD
Miss Priscilla Isaac, daughter of the plaintiff, when called corroborated the evidence of the former witness. She had waited on her mother pretty nearly all the time. Her mother was strapped to a board in bed for several weeks and the witness slept in the same room with her until April.

MISS VIOLA MCINTOSH.
Miss Viola McIntosh, of Rosedale, was called and stated that she was postmistress at Rosedale. She had noticed Mr. Callan's auto passing in the morning with Mr. Callan driving. She did not recognize the other occupants. In the evening she noticed the auto returning.

TO COBOCONK AUTOS
Mr. Arthur Ham when called stated that there were only two autos in Cobocok, his and Mr. Callan's. His auto was not out at all on the day of the accident.

FREDERICK JONES
Mr. Frederick Jones on being examined by Mr. Stewart stated he saw Mr. Isaac in Fenelon Falls on the day of the accident. On the way home Mr. Isaac followed him home as far as McCormick's Corners where they turned in opposite directions. On the way home he met Mr. Isaac Knight, a neighbor driving towards Fenelon Falls.

IT SOON PASSED.
Mr. Rich. C. Webster was next called, stated that he was in Leleon Falls on the day of the accident, and on the way home saw the auto on the Lindsay road. It was going pretty fast and it was soon out of sight.

To Mr. McLaughlin the witness stated that the auto did not pass him, but went on ahead, nor did it pass Mr. Knight.

At this juncture Mr. Stewart submitted another portion of Mr. Callan's evidence as given in the preliminary evidence.

MET MR. CALLAN
Mr. Geo. Isaac, brother of the plaintiff, was next called, remembered meeting Mr. Callan, the defendant, in the Village of Fenelon Falls some time later, and in a conversation with Mr. Callan, the latter asked the witness how Mr. Isaac was, and said he would call and see her. He offered to give him a ride home. He was told that Mr. Callan never called to see Mrs. Isaac.

DOCTOR'S EVIDENCE.
Dr. Johnstone, of Fenelon Falls, stated that he was called to the home of Mrs. Thos. Isaacs to attend to Mrs. Isaacs. "I found Mrs. Isaac apparently suffering great pain. I examined the leg and made up my mind it was a case of fracture, and I had Dr. Graham called in. We examined the leg and found the fracture, and I continued treating Mrs. Isaacs for three months. She was very nervous and even when not in pain she could not sleep. There was a slight abrasion on the knee and the leg was swollen from the hip to the ankle. The leg is now short and the thigh and calf of the leg are slightly swollen. Her lameness will be permanent. There is likely to be pain, more or less, in the hip around the fracture, all her life. As a result of the accident her physical and nervous condition is weaker. The accident is liable to shorten her life."

To Mr. McLaughlin the witness said the tendency of the fracture would be to give her more pain, although if younger the ailment would heal up faster.

THE DEFENCE SIDE.
This ended the examination of witnesses for the plaintiff, and Crier Short commenced to call the wit-

nesses for the defence.

Mr. R. A. Callan, of Toronto, formerly of Cobocok, the defendant, was the first witness. On being examined by Mr. McLaughlin he stated that on the day of the accident he had with him Mr. Jackson, Mrs. Callan and Miss Callan visited Lindsay in the auto. It was some minutes to four when he left the Simpson House, Lindsay. "We met nobody between Powles' Corners and Cobocok. Between the lime kiln and Orr's corners we saw a rig in a corner and Mr. Jackson and I both got out to lend assistance, but our services were not required, the gentleman in the rig turned the horse and went up a side road. It was about 20 minutes after five when we passed this rig, and with the lights burning we could easily see 100 yards ahead. In turning the corner I would be going about 10 miles an hour. There was no visible rig ahead of me and I was watching the road carefully. If there was a rig at all I would have seen it. It might have been on the side of the road. After passing the swamp, near Geo. Isaac's place, I saw four men on the ground going the same way as I was. They asked me for a ride. I saw nothing of Mr. and Mrs. Thos. Isaacs that evening. If they were there they must have got to one side of the road. I heard nothing about any accident that night, but heard about it the day after. Mr. Isaac never called on me, I never spoke to him in my life. My motor struck nothing on that trip or on any other trip. I arrived at Mr. Jackson's hotel, Cobocok, about 15 minutes to six o'clock. It is 25 miles from Lindsay to Cobocok."

CROSS-EXAMINER.
Mr. Stewart—"Did you see anything of the accident?"

ANOTHER ACCIDENT.
Mr. Stewart—"Didn't you run into a man called Robertson at Dunsford, once?"

"No, sir."

Mr. Stewart—"He claims that you did. For what business did you visit Dr. Johnstone?"

"I heard about the accident to Mrs. Isaacs and asked him about it, but I did not go there for that purpose. I do not remember any conversation I had with Mr. George Isaac, or telling him that I would call on Mrs. Isaacs."

Mr. Stewart—"Your memory is bad."

"Oh, sometimes."

Mr. Stewart—"You don't think that Mr. Isaacs is mistaken?"

"No, I don't recollect it."

SEE BETTER IN DARK.
The witness stated that at dusk time, with the lights shining, that he could see 200 feet ahead, but one could see farther ahead when it was dark. He met the buggy (Mr. Bedford's) between the corner and Perrin's creek. The horse acted badly and the driver turned around and went back and turned to the left. He had traveled 30 miles an hour in his auto.

MR. J. E. JACKSON.
Mr. J. E. Jackson was next called, and stated that he was proprietor of a hotel at Cobocok. To Mr. McLaughlin witness said in part that he was with Mr. Callan on the day of the accident. He was accustomed to driving a car. Mr. Callan's was a left hand driving car. The witness corroborated Mr. Callan's evidence in regard to the time and place seeing the horse and rig (owned by Mr. Bedford.) No other rig was seen that evening. "The lights on my show the road straight ahead and not on the sides."

MRS. CALLAN.
Mrs. Mary Callan, wife of the defendant, was next called. Witness stated that she had often traveled with Mr. Callan in the car. The meeting of the rig (Mr. Bedford's) was recalled, the witness corroborating the evidence of the two former witnesses. Mrs. Callan said her son worked in a bank at Fenelon Falls, and two days after the accident the son called the witness up on the telephone and asked her if the car had been out.

Mr. Stewart—"When your husband and Mr. Jackson got out at the creek and were not needed you said 'stung'?"

"Yes."

Mr. Stewart—"So that if your husband said you said 'stung' when you met the men with the pitchforks, as he did, you would say 'I was mistaken'?"

"I would not say as it is a word of mine."

MISS CALLAN.
Miss Winnie Callan was next called. In her evidence she stated that she was a daughter of the defendant. The witness gave much the same evidence as the previous witness. She recalled meeting with the one rig, but of meeting no other rigs on the way to Cobocok.

DR. JOHNSTONE RECALLED.
Dr. Johnstone was recalled by Barister Stewart and stated that Mr. Callan called at his office at Fenelon Falls after the accident and enquired as to the state of Mrs. Isaac. Mr. Callan said he (Callan) had heard that he was blamed for the accident. To the knowledge of the witness Mr. Callan and he (Dr. Johnstone) had discussed nothing else in particular.

To Mr. McLaughlin Dr. Johnstone stated that Mr. Callan said he did

not see anything of the Isaacs on the road. Mr. Callan also remarked that he knew nothing of the accident.

R. J. McLAUGHLIN, K.C.
In his address to the jury Mr. McLaughlin in part stated that it was an unfortunate accident. "There are a great many accidents where nobody is to blame. Except Mr. Callan, who was negligent you cannot place the blame on him. There is a feeling against autos, but they have a perfect right to the roads, but the driver of the auto is not responsible for any accident unless he is negligent. Mr. Callan was driving along carefully. The point is what did Mr. Callan do that was improper? If Mr. Isaac had kept right along the road, when Mr. Callan got within 300 or 400 feet of the rig he would have slowed down and signalled, but Mrs. Isaac's automobile was frightened and jumped out. There was not the slightest bit of danger of Mr. Callan riding over anyone. His lights were on. She was the sole cause of her own injury, having jumped out and unnecessarily injuring Mrs. Isaac. Mr. Callan was not to blame. The rig must have turned off into those cedar bushes when the car was 300 feet behind. The law tells how fast a car must be traveling when meeting any rig, but doesn't say anything about the speed when going in the same direction. All she had to do was to sit in the rig and be perfectly safe. The auto did not hurt them in any way. Mr. Callan couldn't be expected to sound his horn when there was nobody ahead of them. The driver of the auto was not guilty of any negligence."

MR. THOS. STEWART.
Mr. Thos. Stewart in his address to the jury stated that his task had been made somewhat lighter by the placid address of Mr. McLaughlin. "In his preliminary evidence Mr. Callan disputed everything, necessitating the securing of a number of witnesses to drive the facts home. The auto was beyond any manner of doubt the one that did injury to Mrs. Isaacs. The position over Mr. Callan first took was that it was not his machine, but the pile of evidence was driven home and the owner of the auto established whose auto scared the horse and in consequence causing the injury to Mrs. Isaac. Mrs. Isaacs, the position over her shoulder saw the auto close by. Barister Stewart stated that the road was lined with bushes at the time of the accident, which had since been cut down. When Mr. and Mrs. Isaac looked back they could not see away back on the road on account of the bushes, so that the auto must have been close up as stated in the evidence. The horse saw the auto before the occupants of the buggy, the animal showed signs of fright and began jumping. The woman saw the horse pawing over her could almost feel the wind of the auto behind, and she knew that if she did not jump out the auto would crash into the rig, as it showed no signs of stopping, so she jumped. It is absurd to surmise that the auto had to strike the buggy before the driver of the auto could be held responsible. If Mr. Callan did not see the buggy he should have. The law states that the onus of proof in such cases shall be on the driver of such motor vehicles. In this case Mr. Callan had utterly failed. Mr. Isaac was so close to the auto that he could recognize Mr. Callan as he passed, and Mrs. Isaac could feel the breeze as the machine passed, almost instantaneously after falling to the ground. If she hadn't jumped she would have been killed, and would Mr. Isaac if he hadn't jumped to one side. Mr. Callan with his lights on should have seen the horse and rig and also Mrs. Isaac lying on the ground. Mr. Callan did apparently what a good driver should do, he rushed past when he saw the rig clear; he didn't stop or come back to see what had happened. The monetary loss was more than \$70, as claimed by the counsel for the defendant. Who will put the value on the industry of a good housewife, who has now been crippled for life, and who will continue to suffer for years? In these cases the husband has a right to claim damages for his wife's disability and loss of companionship. The wife was also entitled to pecuniary damages. We have asked for the husband \$1,000 and for the wife \$2,000. If Mr. Callan had stopped his auto the woman would not have been hurt. People who own autos (and they have come to stay) must be taught that the roads are not to be used long before the autos arrived."

JUSTICE BOYD.
In the course of his charge to the jury Justice Boyd stated that the case had been simplified by Mr. McLaughlin, counsel for the defence, stating that he was not disputing that the auto which frightened the horse was owned by Mr. Callan. There were important points to consider on both sides, and although the hour was late he thought it would be best for the jury to give judgment before adjourning. He would adjourn the court to meet in the morning at 9.30 o'clock. This morning the verdict as above was handed to the court in a sealed envelope.

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C. A. BOGERT, GENERAL MANAGER.
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