

# Liskeard Man Gets Damages in Claim Over Motor Crash

### A. D. McArthur Assessed \$400 and Costs by Jury in Suit Brought by Ernest Frisby as Result of Collision Near Here More Than a Year Ago

Judgment in favor of the plaintiff to the amount of \$400 was awarded E. Frisby, of New Liskeard, by a District Court jury before Judge Hartman yesterday afternoon at the conclusion of suit for damages instituted by Frisby against A. D. McArthur of Haileybury. The case was the sequel to an automobile collision near Moore's Cove on October 28th, 1928, when a car owned by Mr. McArthur was in collision with a car owned by Mr. Frisby and driven by the latter's son.

An interesting point was raised during the action by admission of Garfield Frisby that he did not hold a driver's license at the time of the accident. This fact was elicited by J. A. Legris, counsel for the defendant, during cross-examination, despite objections on the part of W. H. Walter, counsel for the plaintiff, who maintained that absence of a driver's license would not necessarily be regarded as negligence. Judge Hartman permitted the admission to stand in the record but pointed out that while failure to possess a driver's license would render the driver liable under the Highways Act it did not outlaw him in the action.

Commencing on Tuesday afternoon, the trial continued throughout Wednesday, the jury retiring to consider their verdict late on Wednesday afternoon. Conflicting evidence was given by the principal witnesses, and in his charge to the jury, His Honor pointed out that it resolved itself into a question as to which of the separate versions of the accident they were to believe.

According to Garfield Frisby and his companion, Russell McNeil, who was with him in the car at the time and "in charge of the car," they were driving from New Liskeard to Haileybury at 3 p.m. on the afternoon of Sunday, October 28th, 1928. As they approached a culvert south of Moore's Cove they saw the defendant's car, which was driven by Wilmot McFarlane, of Haileybury, coming toward them. They claimed the car was being driven at a high rate of speed and that its course was erratic. Each claimed that Frisby took to the ditch to avoid a possible collision and that the Frisby car was not travelling at a rate of more than 20 miles an hour. They said that the other car veered toward the embankment on the east side of the road, then suddenly plunged toward them, the cars meeting at an angle. After the crash, the car driven by McFarlane was directed across the road and the Frisby car had been pushed farther into the ditch.

According to McFarlane's story as related on the witness stand, he had obtained the car from Mr. McArthur's garage for the purpose of driving to New Liskeard

on business. He denied that he was driving at excessive speed as he approached Moore's Cove and denied that he had lost control of the car at any time. He claimed that the Frisby car, approaching him, was travelling "very fast" but refused to commit himself as to its probable rate of speed in terms of mileage. He contended that the collision took place because Frisby's car occupied more than half of the road and that he endeavored to avoid the accident by applying his brakes and skirting the embankment on the east side of the road. At the moment of collision he claimed that his car was travelling at a lower rate of speed than the other and that the front of the other car, at the left, struck his car, swinging it around so that his car was lying across the road, while the Frisby car went into the ditch.

Raoul Bertrand, who had been driving from Haileybury and reached the scene of the accident a few minutes later, claimed that he saw the tracks of McFarlane's car on the extreme right-hand side of the road for a distance of thirty feet back of the point of collision and said that it was evident the brakes had been applied. In his experience as a garage mechanic he contended that McFarlane's car, being the heavier automobile, must have been travelling slowly and must have been struck by the other car in order to leave the two cars in the position in which he saw them.

Evidence was given by various witnesses who reached the scene of the accident before the cars were moved out of the way. The plaintiff was claiming \$400 damages for the cost of repairing the car, and \$100 to reimburse him for losing the use of the automobile since the accident. The Frisby car, it appeared, had not been repaired. The estimate of damages was made following an inspection of the car, in the yard of a New Liskeard garage during the spring, some five months after the accident. Mr. McArthur, in his counterclaim for \$500 damages to his car and \$200 for financial loss incurred by losing use of the automobile for the remainder of the season, said his car was again in running order, having been repaired at his own garage.

Examined by Mr. Legris, the driver of the Frisby car, Garfield Frisby, admitted being involved in an accident two months previous to this collision, in which a little girl had been hurt, and admitted having paid the hospital bill. This fact was stressed by defendant counsel in alleging negligence. Plaintiff's counsel, however, contended that McFarlane had been negligent in that he had been travelling at a high

## Social and Personal

James Murray in "The Shake-down" a thriller at Broadway Theatre Wed., Thurs. next.

Coming Paramount's new sensation, "Four Feathers" nothing but stars in cast. Xmas week.

**BORN**—On Friday, November 29th, 1929, to Mr. and Mrs. Chas. Austin, Georgina Avenue, a daughter.

**BORN**—On Monday, December 2nd, 1929, to Mr. and Mrs. J. B. E. Proulx, twin boys, Jean Claude and Laurence.

Mrs. C. W. Tully left last Thursday evening for a couple of weeks' visit with her sister, Mrs. W. C. White, at Bruce Mines.

Raoul Bertrand, who has spent the past few months at Noranda, Que., arrived in town at the weekend for a visit at his home here.

C. H. White and M. J. Dunn, of the C.P.R. at North Bay, were in Haileybury this week as witnesses in a case being tried in the District Court.

Tonight, the last showing of "Noah's Ark." If you failed to see it, don't miss your last opportunity. Take it from us, it's great. Broadway Theatre.

Mrs. M. J. Foster arrived home on Sunday after a visit with her sister and other relatives in Detroit, Mich. Mrs. Foster was accompanied by her son, Gary.

William Collier Jr., in "The Bachelor Girl" with Jacqueline Logan; also last episode of "Tarzan the Mighty" at Broadway Theatre, Friday and Saturday.

Watch for announcement of Catholic Girls' Club's tea, produce and novelty tables at the home of Mrs. Geo. T. Smith, Georgina Avenue, on Saturday, December 14th.

Lois Moran and Warner Baxter in "Behind That Curtain" a thrilling Scotland Yard mystery drama; also another popular Collegians at Broadway Theatre on Monday and Tuesday.

Alvin Leach, of Timmins, relieving agent of the Canadian Na-

rate of speed and that the car was beyond his control.

Questions were submitted to the jury by Judge Hartman for consideration in enabling them to arrive at a verdict, covering their opinion as to the comparative negligence or carelessness of each driver and the degree of negligence should each be found to have been at fault.

tional Express, is in Haileybury for a week or two, and is in charge of the express office at the T. & N. O. station.

The regular monthly meeting of the Women's Missionary Society of the United Church will be held on Thursday, December 12th, at 3 p.m. at the home of Mrs. Somerville, Blackwall St.

The regular monthly meeting of the Home and Foreign Mission Circle of the Baptist Church will be held on Thursday, December 12th, at the home of Mrs. John Hendry, Albert Street, at 3 p.m.

Mr. John Hendry Sr., Albert Street, suffered rather severe frost bites to several of his fingers during the cold snap last week. The injured members are healing up nicely and no serious consequences are expected.

## In Memoriam

In memory of our beloved son, Elmer George Whorley, who departed this life on December 2nd, 1928.

Deep is the grave where our darling is laid, Sweet are the memories that never shall fade.

Leaves may wither, flowers fade and die, But to forget him, never will I.

—Father, Mother and Brother

## CHURCHES

### The United Church

Rev. D. A. MacKeracher, B.A., Pastor  
Mr. R. H. Unwin, Organist and Choirmaster.

11 a.m., 7 p.m.—Public Worship.  
2.30 p.m.—Church School  
Fri., 8 p.m.—Choir Practice.

### Salvation Army

Sunday Morning Service at 11.  
Sunday Evening Service at 7.30.  
Sunday School—2.30 p.m.  
Tuesday, 8.00 p.m.—Prayer Meeting.  
Friday, 7.15 p.m.—Junior Meeting.  
8.00 p.m.—Y. P. Legion Meeting.  
Saturday Service at 8 p.m.  
Wednesday, 8 p.m.—Public Meeting.

### The Baptist Church

A. PRICE, Pastor

Sunday Services at 11 a.m. and 7 p.m.  
Sunday School at 2 p.m.  
Prayer Service, Wednesday at 7.30 p.m.

### Albert Gospel Hall

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Sunday School ..... 2 p.m.  
Gospel Meeting ... 7.00 p.m.  
Bible Class, Thursday, 8 p.m.

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**For Sale or Rent—Six Roomed** house on Ferguson Ave., opposite Convent. Apply to E. Simard. 34-t.f.

**For Rent—Bungalow on Latch-**ford Street; worth \$35 per month; will rent for this winter at \$15.00 per month. Apply to Mrs. A. L. Herbert, or phone 149. 34-t.t.

**House to Rent—Six Rooms, El-**liott St., furnished or unfurnished. Box 436 or Phone 311 Haileybury. 28-t.f.

**For Sale—Victor Gramophone,** with 22 records, all in first class condition. A real bargain at \$35.00. Apply to W. T. Joy, Court House, Haileybury. 35-1c

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**For Sale—Well-built, Modern** house in excellent location; 6-room and 10-ft. enclosed verandah. Housing Commission and terms. Mrs. D. W. Cameron, Browning St. Tel. 345. 14-t.f.

**To Rent—8 Roomed House on** Latchford St. Apply to M. J. Conkey. Phone 138, Haileybury. t.f.

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