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High Court of Justice.

The non jury sittings of the High Court of justice opened here on Monday, chief Justice Boyd presiding. The bar was re presented by N F Patterson Q. C., J E Farewell Q. C., W R Riddell, C J Holman, T W Chapple, C A Jones, J B Dow, G Y Snith, F N Raines, James Rutledge and others. It is a long time since there was such an array of talent.

damages. Thos Rice went to Bowmanville with the Whitby fire brigade on May 25th to help celebrate the Queens birthday. During their absence a house belonging to Thos Deverell jr was hauled upon the road by Jos Heard who had the contract of moving it. The building was left on the turnpike of Dundas street opposite Geo Brittons residence. In turning from Bowmanville at 9.30 that evening the team hauling the carriage in which Rice was riding with eight others shied at the building and succeeded in upsetting the carriage into the ditch. town. Rice was found under the rig bad- a fair jog when the accident occurred. ly bruised, and sued the town for \$1500. The town took action to make Thos Deverell jr a joint defendant, or third party in the suit. W R Riddell and C A Jones appeared for plaintiff, J E Farewell Q C. for the town and G Y Smith and C J Holman for defendant Deverell.

Thos Rice-Am plaintiff in this suit. Had been at Bowmanville on May 25th ing so far that to wink the eye would be whom I was talking yelled "Look out!" The one mostly responsible for this acwith firemen to celebrate Queens birthday. There were 9 in the rig driving spoken of that night, but was a little The horses shied after passing east end who enjoyed the liberty of moving his date the Thirty-first day of August, 1897, comhome, and met with an accident on Dun- blackened next day. His lip was sore. of building and when west of west end building along the street and the conse- manding me to levy upon and sell the lands das street in the town of Whitby. It Saw the place where the teeth had been the carriage rolled over. I went down to quent advantage to himself. It is worth mentioned in the following list of arrears of horses shied at a house which was sitting bage from behind. His sight was great. The centre of the building was 17 feet ed by this building, and yet took no steps thereof as may be necessary for the payment of in the middle of the road, and turned the ly effected. Would not despute Dr from the crown of the ditch. Was sitting on Burnhams opinion as a specialist.

In regard the taxes and the costs thereof, in the Council to have the public protected. In regard the taxes and the costs thereof, in the Council ful driving I think two rigs could pass. the injuries of Rice, he does not believe Chamber, in the Town of Whitby, on TUEScarriage into the ditch. Was sitting on Burnhams opinion as a specialist. the right side of the carriage on the front seat. When the horses shied into the whether or not the accident hurt the eye south. The road is always light from His idea would be that \$175 and county in the forencon. ditch attempted to jump out, but the cover of the carriage held him in, and he was pitched into the gutter. Lost consciousness. When he regained consciousness found that he could not see. ball was almost gouged out. Had three teeth knocked out, was hurt in the ribs and back, and generally knocked out. Was in bed six weeks. Had attendance after the accident. from Dr McGillivray and Dr Eastwood. Was attended by his wife, two daughters and a son. Was not intoxicated on the night of the accident. Nor did he observe anything wrong with Smith Campbell, who was driving, or that he was under the influence of liquor. His theory as to why he and the others in the rig did not see the building on the road is that they were not expecting any. under the trees before reaching building. went into the ditch and when turning it was dark there under the trees.

whether he walked to Mrs Elliotts after drunk. Had one glass of lager at Osh- accident on account of the house standthe accident or not. Does not know awa, and three or four at Bowmanville. ing on the road. whether he spoke or not. Was looking J T McGeary-Owns carriage which To Mr Riddell-There was nothing to ahead before the accident. Was not was broken. Visited scene of accident make us think they were intoxicated. looking back at the boys in the rig and next morning. Found house cornerwise To Mr Farewell-I went east to warn urging them to sing. The teeth broken across the road. The skids reached a rig that was coming. The electric out were good sound teeth, the best he across from the south side to within a lights were about going out. had. My occupation is blacksmithing, foot or so of the north beaten track. If Geo Holden-Was standing about eight but had given it up four or five years be- the horses had not shied but had kept on feet east of building on sidewalk and fore the accident. Usually helped his in the north track, believes the whiffle- could see the building. Could see the son more or less. Had pain in the back trees would have struck building. Paced rig coming quite a distance down the before the accident-the blacksmiths the distance between the building and road going about 10 miles an hour and back it is called. Men sometimes give the grass at the edge of the ditch, and thought the horses were going where form the readers of your valuable paper that up blacksmithing from this cause. Will found it three paces. ment for his back, but did not give up building next morning after the accident. The norses when business on that account. Have done some work since, most of it very lately. Have done edge of the grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. I went about 200 to grass at the north side of the light hurning brightly. Had liquor after leaving Bowmanville turnpike. It was nearly four paces. that night. Had a glass of beer at Osh Chas Perry-Am captain of Whitby awa on the way east. Had more at Bow- fire brigade. Was in carriage when acmanville. There was free lager at Bow- cident occurred. Was stunned by the manville for firemen. Had one glass. fall. Saw Campbell and Rice lying house and the light on the east on the tially how and by what means I was cured house and the light on the east on the Does not recollect having more than four where they fell out of the rig. Neither drinks at Bowmanville. Had more at Rice nor Campbell were drunk. Oshawa on way home. Does rot know how much Smith Campbell had to drink. James Stewart—Was in the carriage Before the accident were driving pretty was horses throw up their heads. They horses shied the rig began to caprize. turning out of the north track. I drive a jumped to the right. Caught a glance of something like a building on the road. Saw the horses shy away from the build-

race their rigs along the roads that night. | man Smith of the tewn street committee His rig tried to pass the other, but could that Deverell had no privilege from the not get by. It was two miles before town to move the building along the they got by. The firemen were singing street. Deputy Scott said to witness that pretty much all the way from Bowman he did not know the building was on the ville to Whitby. Did not see Southwell road until hereturned from his business carried out and dumped into the carriage. at night. There were no lights on the Was behind in dues at the IOOF and road that night. cannot hold them for doctors attendance. Ino Sturgess-Was at the place when Has worn spectacles for years. Is 56 the accident took place. There were no

accident on May 25th. Had seen the dent occurred. There was some house being hauled along the road on about the building being dangerous to May 24th. The night of May 24th was parties coming along. There was some dark. Went down next morning with talk about who would be respon McGeary to see position of things. The an accident occurred. house was 12 x 24, and sat cornerwise To Mr Farewell-Could see the build touching the grass on the south side of ing from the sidewalk. urnpike. There would be seven or pos- M Coffey-Drove to Bowmanville bly eight feet of clear turnpike on the back that day. Saw the buildi h side of the building. A person tour or five rods before he came to i riving in the used driveway on the north was on the south side of the turnpi

side of the north side of the turnpike very thick along there. The house was shied a little. a plank crossing, on which he saw the night grew darker a little later. scratches of the horses feet.

diagrams presented in his evidence. got permission to take up the sidewalk, from ditch to ditch where the accident but did not ask lease to move the build- occurred. The light poles are located on know where it happened. Saw the house ing. Saw Councilor Noble during the the edge of the turnpike and fully light there and the broken rig. That is all he day, but no other member of the town knows about it. Does not know that the council. Told Smith he was going to The building is 16 ft. 8 inches high, 12.4 when he visited the place.

the accident occured. First he knew hundred yards east with two others and raced about three miles on the way about the accident, carriage upset. Was could see the building clearly. sitting in last seat. Carriage upset opposite building. Was the last man to others as to darkness. I was coming band wagon, and warning was given that get out of carriage. Rice had also been home in another rig and knew that the rig. Looked forward and could see the pulled out. Thinks Rice was standing building was on the road. Saw it when building. Had no trouble getting by. up. Saw Rice was hurt. One eye was within three or four rods of it. Looked | W J Luke-Drove past the building closed, the other nearly so, face cut, at it next morning. It did not stand previous to the accident and found plenty mouth bleeding, and complained of hurt straight with the road. The northwest of room to get by. Is a member of the in back. Was conscious apparently, corner was 8 or ten feet from the ditch. town council and streets committee. Saw the house after accident, but not be- To Mr Farewell-Did not measure When he saw building there he did nofore. It could be seen about two rods distance. Could see the road plainly all thing to have the public protected against away if ones attention were called to it, the way up from the model sahool. but without warning one could drive To Mr Holman-I would not like to right up to it and not see it.

To Mr Farewell-There was free beer building was from ditch. at Bowmanville. Drank with Campbell probably three glasses of lager during the day. Had a drink at Oshawa coming Dr Burnham, eye specialist, Torontohome. Jos Bandel took up collection to Has practised in Toronto 13 years, and in it, the band wagon about twenty-two. left eye all right. In normal for reading Heard to take up sidewalk on condition Were singing as they approached the or for distance. With a different glass

house on the road. building. It sat kind of skewed across evidence of either eye having been injur | Dr Eastwood in quest of medicine saw Rice vs Town of Whitby.—Action for the road. None of the men in the rig ed. A shock might hurt the eye, which the building on the street. Understood were drunk.

accident before it took place, but did ed Rices eyes injuriously. There is no oclock. Walked along north sidewalk, reference to Rices eyes. heard a rig coming behind and soon after Rices eyes at the time of the accident. carriage after a time. It was in the dent. Is positive the eyes have been knew the road and the horses knew the ditch. Saw Rice there. Could not re- dissimilar for years.

Both eyes were swelled shut and one eye- trouble with his back was the result of to. To Mr Holman-It is nothing un- had let a contract to Heard to move the the blacksmithing trade. Suspected that usual to move buildings along the streets. building, and that there was no evidence it arose from indigestion. Noticed a rib Mr Barnard-Explained a chart he had to show that Deverell knew the building displaced in Rices side, but that was long drawn for the use of the court.

time of accident. Saw a dark object on from where I was standing near Mr road, the horses jumped aside, and the Brittons. I could see the carriage concarriage capsized. It was dark there, taining plaintiff coming at about ten caused by the shadow of trees. Had two miles an hour but would not call it fast, ribs and shoulder blade broke. Was not just a nice jog. The horses shied when drunk, and was driving carefully.

thing of the kind to be there, and besides Could not see the road at all. Drove onto the road tipped over. To Mr Hol along the north side of the road before man-I yelled at the people in the rig To Mr Farewell-Does not know approaching the building. Was not "Steady there." I did not anticipate an

not swear he never had medical treat- Benj Worfolk-Finished moving the of the building turned very little and Loss Manhood, Nervous Debilit ment for his back, but did not give up building next morning after the accident. went into the ditch. The horses when Losses, Van

when the accident occurred, and saw nothing of the building. As soon as the

ient to effect him. Fred J Jones-Was in back seat of To Mr Holman—The firemen did not as to accident. Was informed by Chair-

John Ballantyne-Visited the scene of Mr Houlden were there when the acci-

and there would be deep shadows from about 9 o'clock. Knew the building was bicycle along the street at night. There overhanging trees. The house must have there, and got a man to lead her horse is no obstruction to the light along the been in the shade. Noticed the track by. There was room to drive past with middle of the road. There are some where the broken carriage ran into the care. Could see the building some dis- shadows under the trees near where the ditch. This was about nine feet from tance before she came to it, but believes lights are located, but the whole traveled

Jos Heard-Had the contract to move building sat. To Mr Farewell-Did not draw the the building. Saw Chairman Smith and Major Harper-The road is 26 feet building had not been moved when he haul a building down near the fair wide and 18.5 long. saw the scene of the accident next morn- grounds. When he left the building Frank Mackey-Was at Bowmanville ing. It was about 8.30 next morning that night there was over 16 feet of clear with fireman that day. Noticed that road between it and the grass at the Smith Campbell, who drove the carriage, James Foley was in the carriage when north side of the turnpike. Walked two was feeling pretty good. The two rigs

pay for the drinks. Had some fast driv- was previously eye specialist in London, ing coming home. The carriage had nine Eng. Examined Rices eyes. Found found the right eye not so quick but nor To Mr Riddell-Walked round the mal as to various uses. Could find no by-Was ill on 24th of May. In visiting might afterwards recuperate. There is no from Mr Heard that he expected to have Wm Taylor-Was at the place of the reason to believe that the accident affect | the moving finished that day. not see the building. This was about 9 danger to be apprehended at present in

Could not see building. Saw building To Mr Holman-Had Dr McGillivray after accident. Had walked 50 yards present at the examination and heard west of building coming back when he from the doctor as to the condition of a crash. Ran east along the road a piece To Mr Riddell-So far as he can see and bumped into the building. Saw the Rices eyes are not affected by the acci-

cognize him until he got very close to his Jerome Scott-Knew nothing of the which shows that they had not previous-The horses broke loose from it an ran up face. The rig appeared to be coming at moving of the building until returning ly seen this building. If horses could from Brougham on evening of the acci not see the building until they were very To Mr Farewell-Did not hear any dent. Could see the building when driv. close we may readily believe that the singing as the rig came along before the ing home after dark. Had been to the driver could not. There would certainly lake. Could see the building from my have been no accident and no person Dr McGillivray-Attended Mr Rice bouse. Was standing talking to two or would have been injured if there had after accident. Had attended him be three others. Heard some one coming been no building on the road at that fore. Rice was not robust. Had been in a rig. They were singing. Were place, or if the building had been proto me for medicine for his back. After driving fast and attracted our attention. tected by hanging out lights or having a the accident found the right eye protrud. Were driving recklessly. Robson with party stationed there to warn travelers. permanently, but possibly it may have electric light from model school to west court costs would be all he is entitled to, done so. Did not test the eye, merely of where the building stood. Rigs were and that the town is not responsible for PERRY'S PLAN EAST OF BROCK ST., NORTH took Mr Rices statements for it. Fre. passing after the accident without dan- any of that sum, but judgment was revious to the accident had treated Rice ger. The horses on the rig that was up served. Mr Holman maintained that for his back. Would not like to say the set apparently went where they wanted Deverell was not responsible because he Con

Jno Robson-1 was present at the time Smith Campbell-Drove the borses at of the accident and could see the house near the building; the driver apparently To Mr Farewell-Found it very dark had no control of the horses. The rig

they liked, and when just past the end I will gladly send FREE to any sufferer from light burning brightly. I went about 200 by quacks and patent medic feet east of building and could see it eas- me in a few weeks. I have

To Mr Holman-The electric light on the west shone on one end of the complaint, to whom I will explain confiden-

E O McCrohan—I was coming home dreds of dollars to find out. Address configuration Bowmanville on night of accident dentially and enclose stamp if convenient

spirited team of horses and they went by all right. To Mr Holman-I would regard the

A Brien-I belped to move the building. We left it at night on south side of the road. There would be 16 or 18 ft of roadway north of the building.

To Mr Holman-Where the accident occurred the road bed is 30 feet wide. W B Pringle—I am reeve of the town moves 10 corns from one pair of feet without and have to pass every night the place any pain. What it has done once it will limb to intercept the electric light shining on the place where the building
stood. This applies to both lights.

To Mr Farewell—Do not know of any
application being made to council for

Jos White-Am clerk of the town ouncil of Whitby. No permit was ated by the town to move the build

To Mr Farewell-Did not experience person driving along to see the building. would have to swerve a little. Trees are any trouble in getting by, but the horse The lights are hung very prominently out towards the middle of the rood.

about halfway between the electric lights, Mrs Richardson-Drove past the house S H Graham-Frequently rides a part of the road is lighted where the

home. Finally Campbells rig got ahead, Matthew Campbell - I agree with aud kept ahead. Witness was in the

James Rutledge-Visited the place contradict Mr Heard as to distance the where the mishap ocurred and found the lighting of the road is uninterrupted at that point. Is mayor of Whitby town. Gave no permit to move building.

Jno Smith-Is member of council and chairman of streets committee. Gave no permit to move building, but allowed that he put it down again.

Wm Calverly, chief constable of Whit-

JUDGEMENT RESERVED.

His lordship said that we must first consider this case from the standpoint of an accident which we all know occured. The firemen left town that morning with the road unobstructed in any way, and expected to find it so at night. They were returning home enjoying themselves after having spent a jolly day. They road. Suddenly the horses shied off,

was on the road at all. (Concluded on fourth page.)

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(Published by Request.)

Mc Charles A Dans, editor of the New York Sun, died at his home in Glencove, Long sland, on Saturday afternoon.

You always think of a pretty baby as plamp and chutby. Scotts Emulsion gives just this always sees a not to fat, just enough for the limples to come. Babies like it, too. General Booth of the Salvation Army bas

DISEASED MEN CURED THOUSANDS of young men, middle aged men and old men can look back at The ignorance of early youth, or later on a misspent life as "one of the boys" has sown the seeds for future suffering. SELF ABUSE is a terrible sin against nature and will bring a rich harvest. Blood and Private Diseases sap the very life and vitality of the victim. Our NEW METHOD TREATMENT will positively cure all the following diseases:

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SYPHILIS CURED, years. Had taken mercury for two years, but the disease returned. Eyes red, pimples and blotches on the skin, ulcers in the mouth and on tongue, bone pains, falling out of hair, weakness, etc. My brother, who had been cured of Gleet and Stricture by Drs. Kennedy and Kergan, recommended them. They cured me in a few weeks, and I thank God I consulted them. No return of the disease in six years."—W. P. M., Jackson.

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TOWN OF WHITBY

Treasurer's Sale of Land for Taxes

County of Ontario, issued by the Mayor under impossible. The other eye was not The horses were going at top speed, cident must be the owner of the building, of the Town of Whitby, to me directed, bearing was a very dark night, and was riding knocked out of his mouth. The pro the upset. Those who had been in the mentioning that several officials of the less such arrears and all costs are sooner paid, I along when quite unexpectedly the true on of the arrears and all costs are sooner paid, I along when quite unexpectedly the trusion of the eye was due to a hemorr- carriage were in a heap in the ditch. town knew the highway was being block- shall proceed to sell the said lands, or so much

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