

# OVERCOAT TIME

MAGNIFICENT SHOWING OF  
**MEN'S WINTER OVERCOATS**  
AT  
**THE BROADWAY STORE**

Every coat in our beautiful collection bears that mark of distinction and originality and the prices represent the Best Possible Saving.

SEE THE REMARKABLE VALUES WE ARE OFFERING.

At \$5.50 to \$20.00 each.

## W. E. FARRELL

The Broadway Store - Opposite Normal School

### TOILET CREAMS

If you are looking for the best and a variety to choose from, try us. We have Cream of Roses and Almonds, Witch Hazel Cream, Cream of Crushed Roses, Witch Hazel, Cucumber and Violet Cream, Sanitol Face Cream, Hazeline Snow, Nyal's Face Cream, Etc.

CENTRAL PHARMACY **ARTHUR J. RYAN**  
Corner Queen and Carleton Sts.

## LEATHER GOODS

We have just received a large stock of Ladies' Leather Hand Bags  
Prices 89c. to \$15.00 Each.  
See Our Upper Window.  
**C. H. FOWLER,**  
Jeweler and Optician. - Opposite Post Office.

### NEW VEGETABLES

GREEN CORN SQUASH  
SWEET POTATOES CELERY

RIPE TOMATOES

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PEACHES PEARS PLUMS GRAPES  
ORANGES BANANAS WATERMELONS  
FROU-FROU--GRAPE JUICE

## E. G. HOBEN

THE YORK STREET GROCER.

Escaya Cream, Pompeian Massage Cream, Ingrams Milk Weed Cream, Knowlton's Massage Cream, Hinds Honey and Almond Cream, Sanitol Face Cream.

For Sale by  
**R. T. MACK** Chemist and Druggist  
386 Queen St. Fredericton, N.B.

## WHEREVER MEN GATHER

You will find but one opinion about the money worth they always get in our

## UNDERWEAR DEPT.

We can give Boy's Wool Fleece - 25c to 45c  
Men's Wool Fleece - 50c  
Heavy Unshrinkable - 75, 85, 1.00

Boy's Sweaters as low as - 50c and up to \$3.00  
Men's Sweaters - 75c, \$1.00 and \$1.25  
Men's Cardigan - \$1.25, \$1.50 and \$1.75  
Ask to see our \$1.89 All Wool Oxford Pant sold everywhere for \$2.50.

## PETER FARRELL & CO

## THE CASE OF BEVERLY GRASS VS. CITY OF FREDERICTON

Full Text of the Judgment Handed Down by Judge Wilson--The City Authorities Were Guilty of Negligence in Leaving Street Roller on the Streets at Night Time--Should Have Marked it With Lights.

The judgment of His Honor Judge Wilson of the York County Court in the case of Beverly Grass vs. The Mayor, Aldermen and Commonalty of the City of Fredericton is given in full below.

### BEVERLY GRASS VS. THE CITY OF FREDERICTON

This was an action tried before me without a jury and was brought to recover damages for personal injuries claimed to have been sustained by the plaintiff and damages to his property in consequence of a collision with a steam roller belonging to the defendants left standing on King street in the City of Fredericton during the evening of Nov. 5th, 1909, without, as it is alleged, lights or signals to prevent travellers from driving against the same. The facts of the case as I gather from the evidence are as follows: The defendants on the 15th day of July, 1909, entered into a written contract with Duff Mitchell and J. Brown Maxwell to lay down on King Street in the said city two blocks of Macadam pavement with curb and gutter, one block from Carleton to York and the other from York to Westmorland street and allowed the said contractors the use of the defendants' steam roller free of charge, except for the expense of running the same, which said roller, under the terms of the contract the Contractors were to return in as good condition as when they received it. By the provisions of one clause of the said contract the Contractors were to save the defendants harmless from all damage which might accrue to their employees or otherwise on account of the said contract and the construction of the said pavement. The lower block from Carleton to York was first completed and after the work on the upper block from York to Westmorland streets was finished the roller was left near half-way between York and Westmorland streets on King street on the right hand side going up without any light upon it or other means to warn travellers.

On the evening of Nov. 5th, 1909, the plaintiff and Obed Nason were driving down King street in an express wagon owned by the plaintiff and struck the said roller with such force that the plaintiff was thrown out of the wagon which was so damaged that he had to hire another wagon to get home with and he was badly hurt physically and it is to recover damages for these injuries and damage to his property that this action has been brought.

It is alleged in the declaration that the Defendants wrongfully suffered a certain steam roller which had been placed by the said Defendants on a public highway in the City of Fredericton to remain there during the night without any light or means to prevent persons from driving against the same whereby the plaintiff while he was lawfully driving along the said highway in the night time, drove his horse and carriage against the steam roller and upset his carriage, etc.

To this declaration the defendants pleaded the general issue.

Mr. McCready at the close of the Plaintiff's case moved for a nonsuit upon the following grounds:

1st. That no damages have been proved.

2nd. If the plaintiff has suffered damage it has not been shown that they resulted from anything more than a nonfeasance for which the defendants are not responsible.

3rd. That the knowledge of the defendants of this obstruction has not been shown.

I refused the non suit being of the opinion that the evidence thus far given disclosed a case of more than nonfeasance against the city and established a prima facie case of misfeasance, which would have to be met in order to defeat the plaintiff's action. At the close of the evidence for the defence, Mr. McCready for the city contended that the work for the construction of which the defendants had entered into a contract with Messrs. Mitchell and Maxwell was a lawful work and the plaintiff must show before he could recover, not only that the city knew the roller was on the street, but that it was there in a dangerous condition. He also contended that in any case the city was not liable because under the terms of the contract, under which the work on King Street was done, the contractors covenanted with the city to save it harmless from any damage that might arise on account of the construction of the work. In support of this he cited Dooley vs. The City of St. John, 38 N. B. R. 455, Rolston vs. The City of St. John, 36 N. B. R. 574, Campbell vs. The City of St. John, 26 S. C. C. 1, and other cases as well as Denton on Municipal Negligence.

In the first of these cases which was brought under the provisions of chapter 2, Con. Stat. 1903, it was held that where work is done for a municipal corporation under a contract, the corporation is not responsible for the death of an employee of the contractor for the negligent manner of doing the work, though the corporation employs its own engineer to supervise the work, for the reason that the relation of master and servant did not exist between the corporation and the plaintiff.

The Rolston case was decided on that ground that the declaration did not allege that the city had knowledge of the obstruction, it declared a mere nonfeasance and was bad on demurrer. In the Campbell case it was held that what was complained of was mere nonfeasance and the city was not liable. The same in the case of Geldert vs. Pictou and in McCrea vs. The City of St. John. These two latter cases were decided upon the ground that in Canada there is no liability on the part of a municipal corporation for damages caused by mere nonfeasance, or neglect or omission to repair highways, unless the statute creating the municipality or under which it operates by express language or necessary implication imposes such liability.

But apart from any statute there is a liability on the part of a municipal corporation at common law for misfeasance causing a nuisance in the highway. Misfeasance as defined by Bouvier is the performance of an act which might be lawfully done, by which act the person receives injury. As Mr. McCready contended at the close of the evidence the work in which the defendants were engaged through their contractors was a lawful work. According however, to the authorities it was their duty to see that it was done in such a way that no injury would be done to the public. Mr. Justice McLeod in his judgment in the Dooley case at page 459 says:—If, however, work is let to a sub-contractor, the doing of which may cause injury to the public than the employer himself is liable. See also Hardaker vs. Idle District Council (1896) 1 Q. B. 335, also judgment of Pollock C. B. in Hale vs. Smeeth Ry. Co. 2 H. & N. 488, Macpherson vs. Bathurst (1878) 4 A. C. 9, and Cleaveland vs. King 132 U. S. R. 295.

I think there is no escape from the conclusion under the authorities that where the defendants suffered upon this work and allowed their contractors the use of the said steam roller it was their duty to see that the roller was so used that the public would suffer no injury and when not in use during the night time, the city contravened placed upon it to warn travellers against collisions therewith.

There is nothing in the evidence to (Continued on page six)

## WHOLE COUNTRY IS RINGING WITH IT Wonderful Cure of Rheumatism By Dodd's Kidney Pills

Mrs. Hutchins of Dunham, Que., could not walk across the room--Story of Her Speedy and Complete Cure.

Dunham, Que. Oct 14--(Special)--Missisquoi County is ringing with the story of Mrs. G. M. Hutchins, who after suffering from Rheumatism Lumbago and Neuralgia, is again a strong hearty woman. In an interview Mrs. Hutchins says:

"I was affected with Rheumatism, Neuralgia and Lumbago. My limbs would swell; my muscles would cramp I was nervous and had a heavy dragging sensation across the loins. "I could not even walk across the room. Then I started to take Dodd's Kidney Pills and after taking six boxes found myself in the best of health--well as ever I was in my life."

Mrs. Hutchins' troubles were all caused by Kidney Disease. That's why Dodd's Kidney Pills cured them so completely and quickly. Dodd's Kidney Pills cure only Kidney Disease, but they are a sure cure for any form of it from Backache to Bright's Disease.

## LEVIS DRY DOCK SCHEME HUNG UP

Ottawa, Oct. 14.--It is understood that the plans and proposals of the Dominion Dry Dock Company for a \$4,000,000 dry dock of the first class at Levis has been referred back to the company, after an examination by the engineer of the public works department, and unless the company makes a very great revision of its demand for a subsidy, their application for aid is not likely to be approved. It is understood that an examination of the company's plans does not indicate that the cost should be what the company by its proposal appears to anticipate.

The application of Vickers Sons & Maxim for subsidy for a first class \$4,000,000 dry dock in Montreal, is likely to be favorably received by the government. The plans are still under consideration, but are likely to be dealt with finally with a short time.

The British government has finally agreed to give Canada full control over foreign copyright in the Dominion. This has been heretofore denied Canada. A British copyright was effective in Canada and an American publisher obtaining a British copyright was protected in Canada. Hereafter a Canadian copyright will have to be obtained.

Hon. Mr. Fisher states that he induced the British government this summer to give Canada full control of copyright, and Mr. Burton will introduce a bill in the British parliament repealing the British Copyright Act of 1842.

At the same time, Hon. Mr. Fisher will introduce a new copyright bill into the Canadian parliament requiring a copyright in the Dominion to obtain protection. This is in accordance with the Berlin convention of two years ago.

## IN OUR FUR DEPARTMENT

Our Fur Dept. this year is away ahead of anything we have ever attempted before. We have used a lot of extra space this year to display our furs. We have made a careful study of the wants and wishes of our trade, so we can satisfy every taste and meet every requirement.

Some of the most popular Furs, MINK, ISSA-BELLA FOX, MARTEN, BLACK LYNX, COLUMBIA SABLE, PERSIAN LAMB, etc.

You may come to our Fur Balcony with confidence in our ability to please you and confidence in the fairness of our prices.

## TENNANT & HOLDER

### PURE WEST INDIA LIME JUICE

A delicious, palatable and nutritious drink for persons of all ages. The Ideal Drink for a Hot Day.

Price 25c. a Bottle.

**HUNT & McDONALD**  
DRUGGISTS - QUEEN ST.

## Peerless Granulated Sugar

SWEETEST, PUREST, STRONGEST.

\$5.30 per 100 lbs. Cotton Lined Bags  
18 pounds for \$1.00.

"Ask for Peerless"

## G. T. Whelpley

508 Queen St. - FREDERICTON, N. B.

## THE CORRUGA STROPS

A double Leather Strop. A Honing and Finishing Strop combined. A Strop that takes a dull razor and puts a sharp edge on it, combined with a strop that puts the finishing velvet edge on your razor. A Strop made by a new process. Prices range from .35c to \$2.00. Special merit in each and every Strop.

## C. Fred. Chestnut

The Quality Drug Store

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## Dining Room Outfit

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ALL THE FURNITURE  
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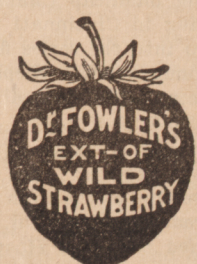
Side Board	\$12.00
China-Cabinet	11.75
Extension Table	6.00
6 Chairs	5.85
Tapestry Square, (size 3x4, remarkable value)	8.00
<b>TOTAL</b>	<b>\$43.60</b>

Every Item in the above list is a Bargain.

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Columbia Dry Cells, Spark Plugs, Trimmers, Coils, Carburetors, etc. Gasoline Engine Repairing and Supplies. Second Hand Wheels.

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**CHOLERA MORBUS, CHOLERA INFANTUM, and all Looseness of the Bowels**

May be Rapidly and Effectually Cured by the Use of that Old and Sterling Remedy

**DR. FOWLER'S EXTRACT OF WILD STRAWBERRY**

It has a reputation of 65 years' standing and never fails to either relieve or cure

Do not be imposed on by any unscrupulous dealer who wishes to substitute the so-called Strawberry Compounds for "Dr. Fowler's" as these no name, no reputation substitutes may be dangerous to your health.

"Proved It Again and Again"

Mrs. CHARLES KITCHIN, Noel, N.S., writes:—"I beg to recommend Dr. FOWLER'S EXTRACT OF WILD STRAWBERRY as I always keep a bottle in the house and would not care to be without it. I have proved it again and again as a never failing remedy for Diarrhoea."

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**THE T. MILBURN CO., LIMITED**  
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