

Province of Prince Edward Island.

SUPREME COURT.

Full Court.]

MCINNIS v. CITY OF CHARLOTTETOWN.

*Corporation—Non liability for non-feasance.*

Action for injuries sustained by plaintiff on account of obstruction in front of a house on Dorchester street in Charlottetown.

The sidewalk on this place was properly constructed by the city in the usual way, and when complete it left an intervening space between the sidewalk and the lowest step of the stairs leading to the street door of the house in question. In order to cover this intervening space between the lowest step of the stair and the sidewalk, the owner of the house placed a plank over it, without the knowledge of the city authorities. This plank projected out about four inches on the sidewalk (which was narrow), and was certainly an obstruction on the sidewalk.

Plaintiff while passing along the street struck her foot against the projecting plank and received certain injuries.

*Held*, that the corporation was not liable for non-feasance.

*A. A. McLean*, Q.C., for plaintiff.

*F. L. Hassard*, Q.C., for defendant.

Full Court.]

IN RE BARRON.

[Jan. 25.]

*Certiorari—Proof of service—C. T. Act.*

This was an application of Barron to quash a conviction of Stipendiary Magistrate Hagyard under the provisions of the Canada Temperance Act, on the ground of insufficient proof of service.

The evidence before the magistrate was that a copy of the summons was left with an adult person at the defendant's residence. There was no proof before the magistrate that this adult person was an inmate of the defendant's last or usual place of abode, or that any effort had been made to serve the defendant personally with a copy of the summons.

*Held*, that the service was insufficient. Conviction quashed.

The Court refused to admit evidence to supplement evidence given before the magistrate.

*D. C. McLeod*, and *J. J. Johnston*, for the applicant.

*H. James Palmer*, contra.