

along close to the curb, as she says, it is difficult to understand how the machine at such a point would be facing south in making a turn if driven without negligence.

The case should go to the jury, and the appeal be allowed with costs of first trial and this motion to plaintiff in any event.

The trial Judge desires it to be stated that had defendant's admission as to seeing plaintiff been present and called to his attention, he would not have withdrawn the case from the jury.

BOYD, C., gave reasons in writing for the same conclusion.

MABEE, J., agreed in the result.

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CARTWRIGHT, MASTER.

MAY 17TH, 1906.

CHAMBERS.

PIGOTT v. BANK OF HAMILTON.

*Venue—Motion to change—Venue Improperly Laid—Rule 529 (b)—Onus — Reasons for Retaining Venue where laid.*

Motion by defendants to change venue from Toronto to Hamilton.

H. E. Rose, for defendants.

Grayson Smith, for plaintiff.

THE MASTER:—It is conceded that the case comes within Rule 529 (b), and that the onus is therefore on plaintiff to keep the venue as laid, if he can.

As long ago as November last defendants gave notice of their intention to make this motion if the case actually went to trial, and it was agreed that they should not be prejudiced by delay in the meantime. Since then negotiations for settlement have been going on, which are not yet concluded. But the points in dispute have been largely reduced.