

give expression to the feelings of the profession by tendering him this valedictory. In bidding him farewell we may safely and most sincerely voice the feelings of the Bar in wishing that his declining years may be passed in peace and comfort as free as may be from those troubles which so often afflict poor mortals; but whatever the future may have in store for him, he may be assured that he will always enjoy the sincere respect and esteem of the public whom he served, and of the profession he adorned.

IMPORTANT NEGLIGENCE ACTION

AN UNREPORTED CASE.

The judgment in the case *Connacher v. City of Toronto*, decided by the Queen's Bench Division March 4, 1893, was apparently not considered of sufficient importance to be embodied in the Ontario Reports, and counsel, since the decision was given, have been compelled to cite the authority in manuscript. No more important judgment, from a practical standpoint, than that delivered by Armour, C.J., in the *Connacher* case, has been given for many years.

The legal question involved is one of no great complication, but the finding of the Court on the evidence taken at the trial with relation to the question of negligence, is of the utmost practical value. Not only so, but the solid foundation upon which the judgment rests must commend the decision to those who care more for substance than technicalities in negligence actions. In placing the principal part of the judgment before the profession, it will be necessary to deal later on with a Supreme Court decision, in *Grinsted v. Toronto Ry. Co.*, 24 S.C.R., 570, given subsequently, and which, it has often been argued, materially qualifies the *Connacher* judgment.

The judgment of Chief Justice Armour sets forth the facts, which are briefly as follows: The plaintiff and his family resided in a house at the foot of Brock street close to the Bay, and near which three sewers were discharged into the Bay, one 73 feet from the plaintiff's house, one 109 feet,