INTERESTING POINT DECIDED IN LAW COURT

Failure of Claim for Alleged Wrongful Detention Of Manuscript.

ISSUE INVOLVED.

Submitted By Author With View To Publication 'And Mislaid. Plaintiff Loses.

In the Kingston Court yesterday His Honour Commander Bodilly R. N., Acting Judge, delivered judgment in the suit of H. T. Thomas vs. F. H. Robertson which was concluded last week.
In giving his decision His Honour

said this is an action in detinue brought by the plaintiff against the defendant claiming the return of a manuscript on £25 damages for its loss, or £25 damages for its wrongful detention.

The first part of this claim fails be cause the manuscript was returned to the defendant after the action was I find the following facts.

The plaintiff was the author of this manuscript in question and the defendant, for all the purposes of this case and to the knowledge of the plaintiff, was the manager of a newspaper called the Jamaica Daily Mail. In April 1928 the plaintifff gave personally to the defendant the manu script with a view to his reading it, and if suitable publishing it in the newspaper. The defendant did not publish the manuscript or return it to the plaintiff within a reasonable

letters demanding its return.

The defendant replied that the manuscript was lost and would be returned if and when found. In July 1929, the plaintiff brought the pre-

In November 1929 the manuscript was found and returned to the plaintiff who then said that

HE WOULD DISCONTINUE was made to this offer until the day before trial, when the defendant's suffered nothing.
solicitor wrote accepting this offer I give judgment for the defendant solicitor wrote accepting this offer but not enclosing the cheque. The plaintiff had never terminated his offer, but returned the cheque (which was duly received by him during the hearing of the case) on the grounds that the offer had lapsed and that the defendant could not then take advantage of it.

At the trial the defendant proved that he had decided not to publish the manuscript, and had placed it in the usual place from which the filing clerk collected rejected manuscripts for filing. The newspaper had changed its offices during the time that the manuscript was lost, but this had no bearing on its loss. By the error of a filing clerk the manuscript had been filed in the wrong file, and could not be found.

I do not find any negligence on the part of the defendant himself who dealt with the manuscript, as he deals with many others in the course of his business as manager.

To these facts I have to apply the must first consider whether the

ant. It was understood that this sum was to reimburse the plaintiff for his expenses, but it was never sugoffer remain the same up to a later date, and the plaintiff recognised the offer remained open because it gently asked the defendant's solicitor if he had yet received any instrucaffairs contained up to quite shortly before the trial.

The first notice of acceptance redated 3. 4. 30., that being the

DAY BEFORE THE TRIAL but the cheque was not received un-

It was reasonable to assume that this offer was still open after the Leigh-White, is of Bantry House. plaintiff had collected his evidence and had gone to court with a view to an immediate hearing. This extra



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meyer need worry. Chamberlain Medicine Co., Moines, Iowa, U. S. A.
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trouble, expense and worry materially changed the conditions on which the offer was contemplated. I find therefore that the offer had lapsed when the plaintiff had begun his preparations for an immediate hear. ing and that the defendants' accept-

I now have to consider the ques-tion whether an action lies against the defendant in detinue and the nature of the defence put forward. The defendant was a bailee of the manuscript and the plaintiff alleges that he tortiously witheld it from

The defence is that this manuscript was lost without any negligence on the part of the defendant, and this defence I have accepted as

Actions in detinue and conversion are now almost merged in one form of action and the authorities on con-Ioward vs. Harris (1884) Cababe vs Ellis Reports 253 is almost exactly parallel to the present case being an action for the loss of a manuscript sent to the defendant for perusal and lost by the defendant. In that case Williams J. held that

there was no case to go to a jury, for the plaintiff

HAD CHOSEN VOLUNTARILY to send to the defendant what the defendant had never asked for, and no duty of any sort or kind was

This case is referred to and commented on in the 4th. edition of Bovan on negligence Volume 2, pages 928-929. It is there suggest- pool 2. ed that this is not a completely accurate statement of the law and ex. plains the judgment by saying that the ruling of Watkin Williams J. pro not evidence to leave to the jury in negligence would affix liability. More over, the action was in trove for the form of action proof of demand and refusal constitutes an apparent conversion and throws upon defendant the burden of showing that the property was lost or stolen. It was probably admitted that the property to the plaintiff within a reasonable was lost. The onus in these time and the paintiff wrote numerous circumstances on the plaintiff was to prove the facts which constituted the negligence; since mere proof of loss or injury to goods while in the hands of a bailee does

not, per se prove negligence in him. This, with the cases cited in Bevan on negligence, appears to cover

the present case. The further ground for a decision in favour of the defendant is that the his action on the payment of six manuscript has been returned and guineas to cover his costs. No reply the book of which it is a part is not yet finished. Thus the plaintiff has

> with costs and solicitor's costs. At the hearing of the case Mr. W. Baggett Grey appeared for the plaintiff, while the defendant was represented by M. C. H. Browne of Bernards 1, Albion Rovers 1; Third per lot. Portion of purchase money the firm of Messrs. Manton and Lanark 1, Brechin City 3.

Major Blake Starts On Expedition

The Daily Argosy in its issue of the 2nd inst. says:-An expedition comprising Major

and Mrs. R. M. Blake, Miss Joan Arbuthnot and Miss Rachael Leigh-White of the Guiana Rivers Syndicate, Ltd., left the city yesterday afternoon by the Colonial steamer written by him entitled Ancestor "Tarpon" for the North West Dis- Jorico. trict where they will prospect and plaintiff's offer to accept six guineas mine for gold and other minerals in settlement was still open at the time it was accepted by the defender and the condition will be away for should expedition will be away for about three or four months.

Major Blake is not a stranger to gested that it was a precise figure this colony as he was engaged here Phone 372 to cover his costs to any precise date.

The circumstances surrounding this nection with the diamond industry.

Mrs. Blake is also not a stranger. She took an expedition up the Mazwas admitted that his solicitors fre-aruni in 1923 and spent six months up "top-side" and subsequently pubtion about it. The answer was al. lished a book on the "Diamond Trail ways in the negative. This state of of British Guiana." It is this book that prompted the other ladies to make the trip. Mrs. Blake has been ceived by the plaintiff was by letter asked to write articles relative to the interior of the colony for publication abroad.

Miss Arbuthnot is Major Blake's niece, and the other lady, Miss Bantry, County Court. Miss Arbuthnot is by no means a "tender- ply to:foot." She spent some time in Kenya colony and did a long trek from Uganda to the Nile, which is said to be very wild country in Africa, and travelled by a small boat through the Nile down to Khartoum. thence to Cairo.

Colonel E. J. Bridges, who should have been a member of the expedition, has returned to England through iliness.

He developed severe rheumatic attacks in his arms and hands on the voyage from England to Barbados and was medically advised to return home for treatment. Colonel Bridges has, however, written to Major Blake intimating that he proposes to come out and asking him to be down country at the beginning of

October to meet him. The members of the expedition were given a hearty send-off by a number of their friends and wishes for the success of the venture

A Correction.

THE EDITOR, Sir,-In the report of the "memorial service, and unveiling ceremony at Bethany, the name Rev. S. H. Allen should be Rev. S. Allen. Obviously the word Presbyterian should be printed Presbyter which is really a rank for a minister or Priest between a Bishop and a Deacon. Your Saturlay's issue in which the report appeared has a very wide circulation, and it would be regrettable should your readers be misled by clerical inaccuracies.

I am, etc...
MILE GULLY CORRESPONDENT. April 14, 1930.

Results of League Football Games In Great Britain

(By Direct West India Cable Company) LONDON, April 12,—League foot-ball matches played today resulted shop and six rooms on 1 acre of land as follows:-English League, First well fruited; large bearing fruit Division: Arsenal 8, Sheffield United trees. Price £ 560. Inspect then apply to— Bolton Wanderers-Manchester Unit- Auct. Val. Real Est. & Com. Agent, ed not played; Burnley 4, Liverpool Phone 372 1; Derby County 2, Leicester 2; Everton 2, Grimsby Town 4; Leeds United 4. Blackburn Rovers 2, Manchester City 1. Burmingham 4, Ports applicable to definue. The case of mouth 0. Huddersfield Town 1: Sheffield Wednesday 1, Middlesbro 0; Sunderland 4, Westham United

Second Division: -- Bradford City 2, Bury 1; Bristol City 1, Millwall 0; Cardiff City 1, Nottingham Forest 1; Charlton Athletic 0, West Bromwich Albion 1; Hull City 0, Bradford 2: Notts County 1, Southhampton 2; Preston North End 0, Oldham Athletic 3; Reading 3, Tottenham Hotspur 0: Stoke City 3, Barnsley 0; Swansey Town 3, Chelsea 0. Wolverhampton Wanderers 1. Black-

Third Division: - (Southern Section.) Bournemouth and Boscombe 3, Bristol Rovers 1; Crystal Palace bably was that loss without some- | 4, Torquay United 2, Ereter City1, thing to show the circumstances is Coventry City 1, Fulham 1, Plymouth Argyle 3, Gillingham 3; Newport County 0; Luton Town 2, Brentford 1; Northampton Town 2, Auct. Val. Real Est. & Com. Agent, Watford 0, Norwich City 5, Merthyr Phone 372 Town 1; Queens Park Rangers 8. Swindon Town 3: Southend United 4, Clapton Orient 1; Walsall 2, Four apartment dwelling house and Brighton and Hove 0.

Scottish First division: - Airdrieonians 3, Hearts 2, Clyde-Cowdenbeath not played; Dundee vs. Rangers not played; Falkirk 5, Dundee United 2; Hamilton Academicals vs Queens Park not played; Hibernians 0, Aberdeen 1; Kilmarnock 2, Motherwell 3: Morton 3, Ayr United 4. Patrick Thistle vs. St. Johnstone not played; St. Mirren 0, Celtic 0.

Second Division:-Arbroath 4 Dumbarton 3; Armadale 1, Raith Phone 372. Rovers 1; Boness 2, Stenhouse Muir 0: Dunfermline Athletics vs. Kings Park not played; Fife 5, Forfar 2; East Stirlingshire 2, Leith Athletics

MR. W. J. LOCKE NOVELIST, SERIOUSLY ILL.

PARIS, March 24 .- Mr. W. J. Locke, the novellst, is lying seriously ill in a flat in Paris, and specialists are unable to diagnose his case.
Reports that he is much better are unfounded.

Of Water Lane, one large dwelling hou 3 of 4 agartments, sewerage, bath, etc. £395. Inspect immediately then apply to then apply to D. C. TAVARES,

Aut. Val. Real Feet. A Com. Agant.

Mr. W. J. Locke, the novelist is | Phone 372. a West Indian and was born in the island of Trinidad. Some time ago the Gleaner ran a serial story

No. 7 Myers Street, Jones Pen Two Storey Building of 6 apartments (shop rental) £2 with land well cultivated. Price £250 Phone 372.

Inspect then apply to:—
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Auct. Val. Real Est. & Com. Agent 27 East Queen St. FOR SALE FOR SALE. Bargain."

No. 13 North Ave. Part of No. 45 Somerset Lane Newton Square Franklin Town.

Dwelling House—Concrete nog and newly constructed of 3 bedrooms, drawing, dining rooms pantry, kitchen with American Stove-Enamel Bath and sanitary arrangements, good locality. Price £ 635. Inspect then apply to:-

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FOR SALE No. 2 Emily Lane Kingston Gardens House of 2 apartments and outbuildings. Price £130. Inspect then ap-

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NOTICE No. 2½ Emily Lane

House of 3 apartments, sewerage newly constructed of concrete nog. Price cheap-£298. Inspect then apply to:--

Kingston Gardens

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FOR SALE NO. 10 JAMES ST.

Four separate buildings with rooms each, rental £5. 10/. spect and for further particulars ap-

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FOR PUBLIC SALE.

The undermentioned Freehold Properties under Powers of Mortgage to the Victoria Mutual Building Society. The Sale will take place at No.

17a Duke Street, Kingston, at 12 noon on Wednesday 14th May 1930. 1. Premises known as No. 9 BER-RETT LANE. ROLLINGTON PEN, ST. ANDREW, the property of Mr. W. A. Maitland, with dwelling house and outbuildings thereon.
2. Premises known as No. 18 STUD-LEY PARK ROAD, KINGSTON, the property of Mr. A. J. Stephens, dwelling house and outbuildings

3. Premises known as No. 8 CROOK STREET, JONES PEN, ST. AN-DREW, the property of Mr. J. M. H. lands, about 25 tenants, income Williams, with dwelling house and about £400 per annum. For reoutbuildings.

For further particulars and per- lars apply tomission to inspect, apply to:-Auct. Val. Real Est. & Com. Agent. Bourke's Real Estate Agency, 17a Duke Street, Kingston, Phone 372

FOR SALE. A acre of land White Hall Lane Invest In A Home: Bargins In Real Estate. St. Andrew and 5 tenant rooms— Price £ 160. Inspect then apply to—

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Price £345. Inspect then apply to

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FOR SALE

No. 15 Clovelley Road

Centrally located near East Queen Street Car lines. Two Storey Dwell-

ng house of four bedrooms (3 up-

andahs, etc. Inspect then apply to-

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Cheap

No. 1 Little Church Street

tenant rooms, Rental £ 5, 10/, Price

FOR SALE

No. 76 North Street

small shop—Rental £3. 10. Price

Auct. Val. Real Est. & Com. Agent

FOR SALE

near Spanish Town Road.

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FOR SALE

FIVE BUILDING LOTS BOURNEMOUTH.

FOR SALE.

No. 2 Foster Lane, Corner.

FOR SALE

On the

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St. Andrew

land with bearing fruit trees. If you

are searching for a bargain do not

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chase money on mortgage if required.

Price £290. For particulars apply

FOR SALE.

ON

PLERNA

roods and 16 perches and butting &

bounding as appears by the Plan

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Kingston, Solicitors having the Car-

riage of the sale or to the under

Auct. Val. Real Est., & Com. Agent,

FOR SALE.

NO. 11HANNAH ST

ALMAN TOWN

building of 4 apartments upstairs &

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Richmond, St. Mary,

About 11 miles from Richmond R.R.

Station, about 1041 acres of land,

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£375. Inspect then apply to-

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Auct. Val. Real Est., & Com. Agent,
Phone 372. 27 East Queen St. FOR SALE. LOT. Belmont Road. Near Windward Road oar lines 60 by 120 ft. Price £ 115. To Inspect FOR SALE. On Spanish Town Road

apply to-D. C. TAVARES, Auct. Val. Real Est., 2 Com. A ent, Phono 372. 27 East Queen St.

FOR SALE.

Waterloo Road, St. Andrew. An acre of land, near the Hope car lines, fenced around. Price £400. Reg. title, for further particulars, apply to---

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FOR SALE. NO. 4 WILD STREET. ALLMAN TOWN 3 apartment house with verandah and outbuildings. Price £325. Inspect to-day then apply to: D. C. TAVARES. Auct. Val. Real Est. & Com. Agent, 27 East Queen St.

stairs), drawing and dining rooms large passage, Kitchen, bathroom, FOR SALE Swerage all under one cover-Veron the Old Hope Road.

Near Babbins Church, adjoining gully, 3 lots of land, frontage on 2 D. C. TAVARES,
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Phone 372 27 East Queen St. ots about 143 ft. on one lot 120 ft. Price £130 each, can build small 4 apartment home. For further par-

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FOR SALE.

No. 3 Higholborn Street, On the car lines dwelling house of 5 apartments ind intuition, a real unine investment, rental £3. 10/per month. Pr. 1 2660. Inspect to-27 East Queen St. day, then apply to—

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NO. 1a FOSTER LANE. -Large two-storey building of 3 apartments, upstairs and 2 apartments downstairs, wide verandah, kitchen, American stove, bath, fruit trees etc. Price £665. In-About 7 rooms, rental £4. 10/ per month. Price £265. Inspect then spect then apply to:-

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FOR SALE. No. 10 East Street.

Very large lot of land and house of Ocean View Avenue, Crescent Road, 4 apartments—with all necessary outbuildings-Inspect and for further particulars, apply to-D.C. TAVARES, on a mortgage if required. For par-ticulars apply to:— D. C. TAVARES, Auct. Val. Real Est. & Com. Agent, Phone 372 27 East Queen St.

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FOR SALE NO 3A SARAH ST. Allman Town

Au t. Val. Real Est., & Com. Agent, Phone 372. 27 Cast Quec. St. Auct. Val., Real Est., & Com. Agent, Phone 372. 27 East Queen St., Phone 372.

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Main building, 4 apartments bungalow of 2 apartments with verandah, large garage, sewerage, Electric lights, very good appearance. Price £665. Inspect then apply to -D. C. TAVARES. House of 5 apartments, spacious Auct. Val. Real Est., & Com. Agent,

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Margaret Ville Lands Wednesday the 23rd day of April Hagley Park Road near Half-Wav-1930 at 11 o'clock a.m. at my Auc-Tree car line - cool delightful clition Rooms situate at No. 27 East mate—within easy reach of the tram lines. Price £ 200 and £ 150 approx Queen St., under Powers of Sale contained in a mortgage, all that half acre lots 100 & 110 x 220 feet. Parcel of land Part of Mount In-Large portion of purchase money on a mortgage if required. Buy now. For further particulars apply to-D. C. TAVARES, situate in the Parish of Clarendon Auct. Val. Real Est. & Com. Agent containing by survey 112 acres, 2

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Allman Town, Cheap. A Real genuine investment to a quick nurchaser consisting of a large apartment house of 7 apartments, 8 separate cottages of 8 rooms, rental £19. 10/ price £695. Inspect with-

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Phone 372. 27 East Queen St. Loans, Loans negotiated on Real Estate. I can help you to purchase or negotiate a loan on your property.

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FOR SALE. Chillon — Ivy Green. Half-Way-Tree Road Large newly constructed two storey building of 4 bedrooms, drawing and

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JONES PEN. Large concrete-nog dwelling house of 8 bedrooms, drawing and dining rooms land extends from street to street (2 lots) well fruited, and with flower garden Price £ 525. 11 you are searching for a home do not fail to inspect. Price £ 525, then

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D. C. TAVARES. Auct. Val. Rea! Est., & Com. Agent, Phone 372. 27 East Queen St.

ing .. Price £330. Inspect then ap-

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Upstairs with shop downstairs and 3 apartments Upstairs, one large dwelling house of 4 apartments and 2 Cottages of 2 apartments and one of one apartment, all with verandah and newly constructed, land of considerable edpth—with breadfruit, mango, cocoanuts and other fruit trees-rental estimated at £13 per

month, Inspect then apply to— D. C. TAVARES, Auct. Val. Real Est., & Com. Agent, Phone 872. 27 East Queen St. Loans, Loans negotiated on Real Estate. I can help you to purchase or to negotiate a loan on your property.

FOR SALE. PART OF KNUTSFORD **PARK LANDS** BUILDING LOTS.

Your attention is called to these building lots in an exclusive section of St. Andrew 88 lots-20 lef Prospective purchasers are invited to inspect these lands. Price £150 Auct. Val. Real Est., & Com. Agent, per lot, more than 2 of an acre each. Business to a speculator and a splendid site to build your home. The half of purchase may be on a Mortgage if required. Buy now For further particulars apply to:-D. O. TAVARES,

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Large two storey building in first class condition of 5 apartments. Price £535. Inspect then apply to

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Phone 372. 27 East Queen St.

all modern conveniences. One door, that's from the Constant Spring car lines £2,200. Another with 4 hedrooms on a large lot. Two doors from the Constant Spring car lines. Price £1390. Another on the Lady Musgrave Road, 4 bedrooms, 2 acres of land fruited. Price £1700. All new

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FOR SALE. No. 5 Camperdown Road, Cheap.

Large concrete nog dwolling house of 3 large bedrooms, stuly, drawing and dining rooms,, Pantry, kitchen a co with American stove, under c v., 2, sewers, Bombay and East I lin Breadfrait trees about 100 ft. front-age, examel be electric to the and continued in the same of the

lay, then a ply to— D C. TAVARES,

FOR SALE.

Off the Old Hope Rd. 88 x 195 ft Splendid opportunity to build your and home one door from the Old-Hope 6.38 for further particulars, apply to-

Phone 372 FOR SALE.

About 21 acres of Land And concrete nog building of six apartments, pantry with sink, kitchen with American stove laundry ba room with tubs; 2 outrooms, garage large enamel bath, level lands with bearing fruit trees Reg. Title. Price £1,265 and a large portion of purchase money on a mortgage if re-and

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Phone 372 27 East Queen St. 146

FOR SALE. Acre Building Lot

meg. Title! Inspect then apply to: D. C. TAVARES,

No. 31 Georges Lane, Cheap.

to-day, then apply to-D C. CAVARES, Auct. Val., Real Est., & Com. Agent, Phone 372. 27 East Queen St.

No. 51 BEESTON STREET, (Corner Love Lane). / GOING AT A BARGAIN! One door from Upper King Street, house of 10 apartments, one out rcom, 3 shops, kitchen, bath, sewer-

do not delay, will be sold. Inspect

27 East Queen St Phone 872.

Sea View, No. 47 Waltham Rd St. Andrew, splendid climate, healthy home, two storey building of 2 larges bedrooms upstairs with verandah and 1 bed room, drawing and dining rooms, enamel bath and sanitary ar rangements downstairs on 2 acre of A real genuine investment to wide awake business men. Main building upstairs with shop downstains and with young fruit trees and extensive flower garden. American stove. Reg. Title. Price £ 620, In great then apply to: land with young fruit trees and ex-

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FOR SALE Cheap, NO. 11 NEWTON ROAD

nog building very good appearance and near the Windward Road car lines, immediate possession, of 4 bed rooms, drawing and dining rooms wide verandahs, Enamel bath and sanitary arrangements, electric lights, kitchen with American stove and sink, large portion of purchase money on a mortgage if required. Inspect to-day. Price £ 695, then see or communicate with me immediate.

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