

assess future damages by reason of excavations at the sum of \$450 and direct judgment to be entered for \$1,800 with costs.

While I have not deemed it advisable to order restoration by the construction of breastworks, retaining wall or other artificial means, I have estimated the damages upon the basis that all material which hereafter falls from the plaintiff's land will be allowed to remain and accumulate where it falls, so as to confine the falling away within as narrow bounds as possible. There will be an injunction therefore restraining the defendants, the Simons, from removing any of this material and restraining them also from working their gravel pit, blasting or taking out material in such a way as to injure the plaintiff's buildings, and the plaintiff may amend his pleadings so as to claim for this.

There was a strenuous effort to shift responsibility from Barnes to the Simons and from those defendants to Barnes. In every item of damage and wrongdoing they were not perhaps equal contributors, but taking in the whole of the damage awarded I am of opinion that an equal assessment upon Barnes and the Simons is the most equitable adjustment I can make.

Among other relevant cases are: *Greenwell v. Low Beechburn Coal Co.*, [1897] 2 Q. B. 165; *North Shore Rw. Co. v. Pion* (1889), 14 A. C. 612; and *Hall v. Duke of Norfolk*, [1900] 2 Ch. D. 493.

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HON. MR. JUSTICE LATCHFORD.

APRIL 14TH, 1914.

ATTORNEY-GENERAL v. PAGE.

6 O. W. N. 228.

*Donatio Mortis Causa—Requisites of—Delivery of Insignia of Property—Key of Trunk—Pass-book—Insurance Policy—Contemplation of Death—Evidence—Corroboration.*

LATCHFORD, J., *held*, that there was a valid *donatio mortis causa* of the contents of a trunk by the handing over a key, of moneys in the bank by the delivery of a pass book, and of the proceeds of a life insurance policy by the delivery of the policy where the other requirements of a valid *donatio mortis causa* were satisfied.

*Brown v. Toronto General Trusts Corp.*, 32 O. R. 319, *Re Beaumont*, [1902] 1 Ch. 889, referred to.

Action brought by the Attorney-General as administrator of the estate of the late Frederick Hales, a messenger at the time of his death at the Mimico Asylum, against the