

caused the accident in question. This the jury answered "No," and did not answer the other questions.

The learned Judge discharged the jury, and was about to enter judgment for the defendants upon this finding, but delayed doing so in order that some consideration might be given to the question of costs. The plaintiffs afterwards called attention to the third question, which was, "Did the crate from its construction and the position in which it was placed constitute a nuisance?" The plaintiffs contended that there might be a nuisance without negligence, and that the question should have been answered.

Subsequently, by consent, the question was left to be disposed of by the learned Judge himself, upon the evidence.

The learned Judge now stated his opinion that once the defendants unloaded the vehicle from their vessel and delivered it on the Government wharf, at the spot thereon and in the position indicated by the wharfinger, in fact under his supervision, they had nothing further to do with it. If it was negligent to leave it in that position or if (as so left) it constituted a nuisance, damages for injury resulting could not be claimed from these defendants, but only from the owners of the wharf.

Action dismissed, and with costs, if asked.

FALCONBRIDGE, C.J.K.B.

SEPTEMBER 17TH, 1917.

RE ROSE.

Will—Construction—Devise and Bequest to Daughter upon Death of Wife—Daughter Predeceasing Wife—Vesting at Period of Death of Testator—Enjoyment only Postponed till Death of Wife.

Motion by the surviving executor of Charles Rose, deceased, for an order determining a question arising upon the terms of the will in the administration of the estate.

The testator died on the 20th February, 1914. By para. 4 of his will, he directed that his wife should be permitted to use and occupy his dwelling-house property and all the chattels therein during her natural life. By para. 7, upon the death of his wife, he devised and bequeathed the said dwelling-house property and chattels to his daughter Clara absolutely, and also bequeathed to her the sum of \$8,000 to her own use. By para.