

the roast-beds and smelter-stacks. Mines cannot be operated without the production of smoke from the roast-yards and smelters, which smoke contains very large quantities of sulphur dioxide. There are circumstances in which it is impossible for the individual so to assert his individual rights as to inflict a substantial injury upon the whole community. If the mines should be prevented from operating, the community could not exist at all. Once close the mines, and the mining community would be at an end, and farming would not long continue. Any capable farmer would find farms easier to operate and nearer general markets if the local market ceased. The consideration of this situation induced the plaintiffs' counsel to abandon the claims for injunctions. The Court ought not to destroy the mining industry—nickel is of great value to the world—even if a few farms are damaged or destroyed; but in all such cases compensation, liberally estimated, ought to be awarded. The Court has now by statute (Judicature Act, R.S.O. 1897 ch. 51, sec. 58, sub-sec. 10) discretion to refuse an injunction and award damages in lieu thereof. See *Shelfer v. City of London Electric Lighting Co.*, [1895] 1 Ch. 287. The defendants set up that many of the things complained of were not the result of the smoke, but were to be attributed to other causes, and that the claims were grossly exaggerated. In addition to claims for damage to crops, claims were made for permanent injury to the soil. The learned Judge, after a full examination and consideration of the evidence, stated his conclusions as to the damages which should be awarded to each plaintiff, without giving any details of computation, thinking that on the whole fairest and best: to Black, \$1,000; to Taillifer, \$800; to the Sudbury Dairy Company, \$1,000; to Belanger, \$750; to Clary, \$1,400; to Ostrosky, \$500. In view of the fact that these are test cases (many other actions having been brought), costs should be awarded to the plaintiff in each case; but, as there was much exaggeration in the claims presented, the amount of costs in each case will be fixed upon bills being submitted, the amounts to be reduced somewhat from what would be allowed upon a taxation under a general award of costs. H. H. Dewart, K.C., A. W. Fraser, K.C., J. S. McKessock, J. A. Mulligan, and J. H. Clary, for the plaintiffs. D. L. McCarthy, K.C., and Britton Osler, for the defendants the Canadian Copper Company. J. M. Clark, K.C., and R. U. McPherson, for the defendants the Mond Nickel Company.