

cott and Edward Westacott, infants, for a writ of habeas corpus directed to Margaret M. Westacott, mother of the infants, and for an order that the custody of the children be given to the applicant. Notice of the application was served upon the mother, and she appeared by counsel. An affidavit made by Hannah Webb, mother of Margaret Westacott, was filed in opposition to the application. She stated that on one occasion, not very long ago, the applicant denied the paternity of the younger child, and doubted being the father of the older one. Marshall was about the age of six years, and Edward only seven months old. An affidavit was also made by the mother. The learned Judge said that it appeared beyond reasonable doubt that the children were being well cared for. Marshall was with the deponent Mrs. Webb, and Edward was in charge of a Mrs. Paddon, at Milton. The mother was paying Mrs. Paddon. It must be assumed that the children were so far in the custody of their mother that the mother could get and produce them in Court if so ordered, so that the custody of them could be given to the father; but, considering the welfare of the children, the age of each, and having regard to the facts leading to the separation of the parents, the order asked for should not be made. Motion dismissed. No costs. R. H. Holmes, for the applicant. Macdonald (Owens & Proudfoot), for the respondent.

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LAVECK v. CAMPBELLFORD LAKE ONTARIO AND WESTERN R.W. CO.  
—FALCONBRIDGE, C.J.K.B.—FEB. 20.

*Damages—Railway—Injury to Property by Blasting—Agreement as to Compensation—Admission of Liability at Trial—Quantum of Damages—Item for Disturbance by Fear of Injury—Costs—County Court Scale—Certificate to Prevent Set-off.*—Two actions tried without a jury at Napanee. The first was brought by Thomas H. Laveck against the railway company. The plaintiff was the owner of lands through which the defendants were constructing a line of railway. He complained of trespass by the defendants and damage caused by their excavating rock on their right of way by blasting, whereby quantities of rock had been thrown over upon a portion of the plaintiff's lands, causing damage to the farm and buildings. The learned Chief Justice finds in favour of the plaintiff, and assesses his damages thus: (1) damages to buildings and contents, \$150; (2) damages for injury to lands, loss of crop, etc., \$50; (3) damages for loss, inconvenience, fear and anxiety to the plaintiff