

are nugatory for the purpose. Hence this application to the High Court. The mother has given security, and she is the natural guardian of the infants, both girls, of three and five years respectively, and will have charge of them probably for many years, and the amount in question is comparatively small. The new Act gives a discretion to the Court to dispense with security in the case of mothers where the insurance money does not exceed \$3,000. These changes indicate that the purpose of the amended law is to commit insurance moneys to the supervision of the High Court as a Court of Equity, and to recognise the necessity of safeguarding the money of infants. Since 1889 at least, the policy of the Court has been definitely fixed to keep under the best possible protection moneys intended for the benefit of infants, so that the corpus will be forthcoming when the beneficiary is entitled to call for it.

The rule is, that, on any application to the Court with respect to the handling or the obtaining of infants' money, the fund must be brought into Court; subject, of course, to the discretionary power of setting aside so much for purposes of maintenance. This policy, set forth in many decisions such as *Re Smith's Trusts*, 18 O.R. 327, *Re Harrison*, 18 P.R. 303, and *Re Humphries*, 18 P.R. 289, has in effect been recognised by the Legislature.

The present case may fall within the exception which permits the whole fund to go out to be applied for the welfare of the infants by the mother as occasion arises. The mother is to be appointed trustee under the Act and the share of the children is to be paid to her, on her undertaking to apply for their maintenance and benefit.

The fixed sum provided by the new regulations is to be allowed for costs.

MEREDITH, C.J.C.P.

SEPTEMBER 22ND, 1913.

NIAGARA NAVIGATION CO. v. TOWN OF NIAGARA.

*Highway—Evidence to Establish—Onus—Failure to Satisfy—
Exercise of Statutory Powers—Harbour—Encroachment—
Trespass—Damages—Costs.*

Action for damages for trespass by the defendants, the town corporation, upon what the plaintiffs alleged to be their lands, in the town, and for a declaration of right, an injunction, and other relief.