

owner must so use his own land that he shall not interfere with or prevent his neighbour enjoying the land in its natural condition.

Judgment for the plaintiff for \$750 damages with costs.

SUTHERLAND, J.

NOVEMBER 20TH, 1915.

BEAMISH v. GLENN.

Nuisance—Noxious Trade—Injury to Neighbour's Property—Local Standard of Neighbourhood—Evidence—Injunction—Damages—Counterclaim—"Boycotting."

Action for damages and an injunction in respect of what the plaintiff alleged to be a nuisance—the carrying on by the defendant of the trade of a blacksmith upon premises adjoining the premises occupied by the plaintiff and his family as a dwelling-house in Boston avenue in the city of Toronto.

The action was tried without a jury at Toronto.

T. H. Barton, for the plaintiff.

H. A. Newman, for the defendant.

SUTHERLAND, J., said that the plaintiff had erected his dwelling-house some time before the defendant's blacksmith shop was built. He actively opposed the granting of a permit to erect it. He said that the defendant bought his lot with knowledge of building restrictions imposed by previous conveyances. He also said that in the operation of the blacksmith shop the defendant was committing a nuisance, in that large volumes of smoke and disagreeable odours and noise issued from the shop and made it impossible for the plaintiff and his family to enjoy his property.

If the defendant caused a nuisance to the plaintiff, it was no defence to say that the defendant was making a reasonable use of his premises in the carrying on of a lawful occupation. The permit from the city authorities to erect a blacksmith shop would not carry with it permission to commit a nuisance in the exercise of the right thereby granted. The duty of the defendant to his neighbour was to abstain from causing any nuisance to him. Mere smoke or offensive odour may be a sufficient ground for the interference of the Court but; it will not, as a rule, inter-