

of. He did not elaborate the proposition thus fully, but what I have said is a fair paraphrase of the proposition.

According to Mr. Porter, the evidence shews that, before the defendants drained any surface-water into the watercourse, it periodically overflowed its banks. It is still in its normal condition, having never been deepened or had its capacity increased. It, therefore, must follow that, when the defendants brought into it a larger volume of water, they increased the overflow; and, thus increasing the overflow, they are liable for doing what they have no right to do, namely, turning into this watercourse a volume of water in excess of its natural capacity—thus having committed a wrong for which they must answer in damages or by injunction.

As to the amount of damages, the learned trial Judge has named a very moderate sum. In actions for damages arising out of the doing of violence to another man's rights, the amount is not to be weighed, as my brother Riddell correctly observes, in scales of gold. A man who commits a wrong against the property of another must take the consequences, and cannot complain if the damages awarded should slightly exceed the actual damage sustained. The situation is brought about by his wrong-doing.

If the defendants here had been influenced by a due regard for the plaintiffs' rights, they might have negotiated with them for the deepening of the watercourse and put it into such condition that it would have taken care of the drainage, whereby all this litigation would have been avoided. Instead of so acting, they proceed in a lawless way to act without reference to the plaintiffs' rights. There is no evidence controverting the estimate made by the plaintiffs as to the damages; and the amount awarded is a moderate capital sum for the probable annual damage. Mr. Porter prefers damages to an injunction. Therefore, we will not disturb the finding of the learned trial Judge as to the amount awarded; and dismiss this appeal with costs.

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