

1 K. B. 260; but the Lords Justices certainly do not countenance the view that a right of action *ex delicto* is assignable.

There is a very considerable body of English authority for the proposition that a right to damages, though arising *ex delicto*, is a chose in action: *Colonial Bank v. McWhinney*, 30 Ch. D. 261, 275, 287, 11 App. Cas. 426; *Termes de la Ley*, Choses in Action; *Blount's Law Dictionary*, Chose in Action; *Williams on Personal Property*, 12 ed., p. 4. Blackstone apparently held the contrary view: see articles in *Law Quarterly Review*, vol. 10, pp. 143, 152; vol. 9, p. 311; vol. 20, p. 113; *Warren's Choses in Action*, p. 161; *Cohen v. Mitchell*, 25 Q. B. D. 262; . . . *Stanley v. Jones*, 7 Bing. 369, 375; . . . *Simpson v. Lamb*, 7 E. & B. 84; *Traill & Sons v. Actieselskabet Dalbeattie Limited* (1904), 6 F. 798.

Notwithstanding the idea of several text writers that causes of action in tort arising out of injuries to property, in which the measure of damages is certain, differ materially from causes of action arising out of personal injuries; that many objections which may be urged against holding the latter class of causes of action to be assignable do not apply to the former; and that although the latter are non-assignable the former may be assigned—a view which receives some support from the dictum of Park, J., in *Stanley v. Jones*, *ubi sup.*, and is held by many Courts in the United States, I can find no English or Canadian authority upon which to rest such a distinction. It is true that causes of action of the former class pass to assignees in bankruptcy, while those of the latter do not. But this is because of the construction put upon the Bankruptcy Acts.

The decisions of the English Court of Appeal in *May v. Lane*, of Wright, J., in *Dawson v. Great Northern R. W. Co.*, and of Armour, C.J., in *Laidlaw v. O'Connor*, afford a body of authority which I may not disregard. They are quite inconsistent with the assignment of a cause of action *ex delicto*, though it be for injury to property as distinguished from personal injury. This view as to the non-assignability of rights to damages *ex delicto*, accords with doctrines of English jurisprudence which have obtained for many years: *Y. B.*, 34 Hen. VI. 30, pl. 15; *Prosser v. Edmonds*, 1 Y. & C. 481, 497, 499; and, excluding American