

There can be no shadow of doubt as to the defendant's moral obligation to pay the annuity, and it would be a misfortune, I think, if the obligation were not as binding in law as it is in conscience.

For the reasons I have given, the obligation is, in my opinion, as binding in law as it is in morals; and the result is that the appeal should be allowed with costs, and that the judgment of my brother Magee should be reversed, and, in lieu of it, judgment should be entered directing payment of the arrears of the annuity, with interest, to be made by the defendant to the plaintiff, and also of the costs of the action, and declaring that the defendant is bound to pay to the plaintiff the accruing annuities as they become due, and that the plaintiff is entitled to a charge upon the farm for the annuity, and directing a sale of the farm in default of payment.

The defendant should pay the costs of the action and of the appeal.

CLUTE, J., agreed, for reasons stated in writing.

TEETZEL, J., also agreed.

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DIVISIONAL COURT.

JANUARY 5TH, 1911.

\*RE HENDERSON AND TOWNSHIP OF WEST  
MISSOURI.

*Schools—Continuation School—Erection of School-house—  
Township By-law—9 Edw. VII. ch. 90; sec. 9; ch. 91, sec. 4.*

Appeal by James Henderson from the order of MIDDLETON, J., ante 152, dismissing an application to quash a by-law of the township providing for the levying of a rate for the erection of a school-house for a continuation school.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

J. M. McEvoy, for the appellant.

T. G. Meredith, K.C., for the respondents.

\*This case will be reported in the Ontario Law Reports.