

did originate the memorandum signed by Mr. Wilson, and the subsequent investigation into the leaking washrack.

Even making large allowance to the plaintiff by reason of his inability to speak English, I think he ought to have drawn the attention of the Water Works Department to the leak in some more effective way; and, further, I believe he would have done so, if he was suffering any such inconvenience as he now suggests. I have no doubt that some inconvenience was suffered; and at the trial I stated that in my view \$200 would be an outside allowance, if he was entitled to recover and entitled to damages by reason of inability to bake enough bread to answer his requirements. The evidence as to this is most unsatisfactory. Particulars had not been given; special damage had not been pleaded; and there was every indication of a desire to exaggerate. If this element of damages is too remote, I would think that \$50 would more than compensate for the inconvenience.

As I am unable to find any negligence on the part of the city, I think the action fails; but if I had thought the plaintiff entitled to recover, I would not have certified to prevent a set off of costs.

In addition to the other grounds, the defendants rely upon statutory defences which were originally given to the water commissioners, and which they claim have passed through them as part of the "privileges" referred to in the legislation. See 35 Vict., ch. 79, secs. 19, 21, 28, and 41 Vict., ch. 41, sec. 1. I do not find it necessary to pass upon this contention.

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HON. MR. JUSTICE RIDDELL.

NOVEMBER, 20TH, 1912

ST. THOMAS, NON-JURY.

RE WOODS, BROWN v. CARTER.

4 O. W. N. 388.

*Executors and Administrators—Claim by Plaintiff to be Next of Kin—Pedigree—Hearsay Evidence—Rule as to, Discussed—Costs.*

Action for a declaration that plaintiff was one of the next of kin of Edward Woods, deceased. Defendants alleged that plaintiff's mother, through whom she claimed, was not the child of, but adopted by, her putative parents.

RIDDELL, J., found in favour of defendant's contention and dismissed action. No order as to costs, save that defendants were given their solicitor and client costs out of the estate.

Discussion of the rule that hearsay evidence admissible to prove pedigree.