

the immediate natural consequences of the injunction under the circumstances which were within the knowledge of the party obtaining the injunction. The damages claimed are in my opinion too remote. The defendant gave notice to the plaintiffs that he was liable to suffer damage by reason of the injunction and that he would hold the plaintiffs responsible, but as to such damages as are claimed the plaintiffs could have no knowledge and they could not be within their reasonable contemplation when order asked for. Damages should be confined to circumstances of which plaintiffs had notice. See *Kerr on Injunction* 592.

No doubt the defendant has suffered some damage but I cannot sort out damage by reason of the injunction distinct from loss of time and trouble and detriment arising from litigation, so no enquiry should be directed. See *Gault v. Murray*, 21 O. R. 458.

There will be judgment declaring a line as now agreed upon between the parties to be the true boundary line between the properties of plaintiffs and defendant. This line may be described, if the parties agree, by Mr. Van Nostrand, Surveyor. If they do not agree I will set out the line in the judgment, upon the minutes being spoken to.

The plaintiffs will be entitled to the \$25 paid into Court as full compensation for the lapping or extension of footings of defendant's wall upon the southern part of plaintiffs' land.

In so far as the action was for injunction it will be dismissed with costs payable by the plaintiffs to the defendant.

There will be no damages to defendant and no enquiry will be directed. In so far as defendant has made such damages a matter of counterclaim, it will be dismissed without cost.

Thirty days' stay.

HON. MR. JUSTICE MIDDLETON.

JUNE 26TH, 1913.

RE IRWIN AND CAMPBELL.

4 O. W. N. 1562.

Arbitration and Award—Provision in Lease—Award or Valuation—Right to Appeal.

MIDDLETON, J., held, that there was no appeal from a decision of three valuers under a clause in a lease, it being a valuation not an award.

Re Irwin, Hawken & Ramsay, 24 O. W. R. 878, followed.