

**CONSEQUENTIAL  
DAMAGES: THREE  
LETTERS ON THE  
AMERICAN DOCTRINE**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649302116

Consequential damages: three letters on the American doctrine by Saxe Brit

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**SAXE BRIT**

**CONSEQUENTIAL  
DAMAGES: THREE  
LETTERS ON THE  
AMERICAN DOCTRINE**



©

# CONSEQUENTIAL DAMAGES:

*THREE LETTERS*

ON

THE AMERICAN DOCTRINE.

BY SAXE BRIT, *president.*

*e<sup>r</sup>*

LONDON:

MITH, ELDER AND CO., 15, WATERLOO PLACE.

1872.

## CONSEQUENTIAL DAMAGES.

---

### I.

*To the* EDITOR *of* —

SIR,—

JONATHAN YANK, of Yankstow, out yonder, had a quarrel not long since with his brother and co-heir, Jeff Yank, in the course of which Jeff killed some of the Yankstow deer. The brothers had hardly made matters up, when my bailiff, here at Britworth, received notice from Jonathan's steward that as the hounds with which Jeff had coursed were bought on the sly (when whelps) from one of my servants, Jonathan required

me to pay for the deer which his brother had killed.

My man, unwilling to plague me on the subject, answered very plainly (so he says) that as I had always forbidden the sale of whelps from my kennels, and that as he, for his part, had taken as much care to prevent such sale as he usually takes with the rest of my affairs, he scouted all responsibility for Jeff Yank's dogs or venison. But as, post after post, the steward renewed his notice, the bailiff, knowing my general wish to be amicable, despatched a groom to see what talking could do ; the steward sent one of the Yankstow keepers to meet him, and these High Commissioners (*exempta fames epulis*, you may be sure) held their sittings at the Washington Arms, hard by the steward's lodge. My man's errand (the bailiff assures me) was simple enough. He was to try and agree with the Yankstow people or some well-known and impartial neighbour, who should say if my folks had been culpably careless about the whelps, and, if so, what I should pay towards the slaughtered deer. It seems the keeper was noisy in his cups, and talked rather big about Yankstow rights and wrongs, and what he (and his) might yet inflict on us if Brit-

worth did not come to terms. But his most amusing feat of eloquence must have been an *argumentum ad possibilem*, in which he ran over the illustrious families who, had all Yank's dead deer been alive, were to have hunted at Yankstow this season, guessed the splendid alliances for all the young Yanks which would probably have come of such hospitality, reckoned the grand total of resulting rent-rolls and dowries, and swore I should make good, in solid cash, these indirect losses to the House of Yank. My man (who has some wit) appears to have replied by asking whether when an annuitant of ten thousand a year slips down dead on a piece of orange-peel, the boy whose negligence dropped the peel is bound to compensate the family of the deceased? On this the keeper, a little puzzled, vowed the arbitrator should settle all that. Whereon my fellow declares he shut him up by remarking that if the arbitrator were left to choose his own subjects, perhaps he might elect to pass judgment on the quarrel between the two Yanks. Finally, the men seem to have got to business; to have drawn out and signed some sort of paper; have chosen a first-rate umpire (our neighbour Sir Kenning Canning), arranged the



time of arbitration, and fixed a place of meeting convenient to all parties.

On the appointed day bailiff and steward, followed by Yankstow and Britworth hangers-on, met, as prearranged, before the umpire ; but the morning was not half over when I heard angry voices beneath my window, and learned from the clamour of a dozen deponents that (to the temporary discredit of their ears, and doubtless to the sudden increase of unconscious latinity in their speech) the steward's attorney had begun his harangue by formally repeating the bosh about indirect losses which the keeper had swaggered over his ale. My bailiff on this had stopped proceedings, and half an hour after I saw him toiling up the hill, sorely hot and chapfallen, and carrying in hand that boasted agreement for arbitration which was held when signed to be such a documentary triumph, such a model of embodied unanimity, that its proud consignatory and congenitor, whose attentions my unworthy horses have continued to enjoy, has gone about, from that time to this, the very Erckmann or Chatrian of the stable. (In other words, he has looked so d——d cocksy that I thought I should have to discharge him.) The first words of this

paper, which I had not before seen, so remarkably resemble a contract which all the world has lately read, that I can't resist transcribing them. "Whereas differences have arisen between the Yankstow steward and the Britworth bailiff, and still exist, growing out of the acts committed by the several dogs which have given rise to the claims generically known as the Deerhound claims." The document proceeds to state that these differences and claims shall be referred to Canning's arbitration, and throughout bears the same odd resemblance to that other more famous instrument, which you will detect in its opening clause.

Well, Sir, allowing for the metaphor "growing out of" (there are few things more dangerous than a bad metaphor, except a metaphor that is nearly good), and the phrase "generically known" (our fellows go to the Yankstow or Britworth Institute, and are deucedly vain, no doubt, of their shabby little bits of rhetoric), the agreement would seem little open to misconstruction. It is plain, at all events, that the differences to be decided are not those between keeper and groom, but between bailiff and steward, and the "claims known as the Deerhound claims," being evidently among the

causes of those differences, must be "claims known" to the parties between whom those differences arose.

Therefore the subject-matter of agreement must be contained in the answer to one question—"What does the correspondence between Yank's steward and my bailiff show to have been the original differences and the original claims?" and I will tell you what Yank and I mean to do. (We met, informally, in the hunting-field.)

We shall call for copies of all the direct correspondence between steward and bailiff, and if (as I expect) it contains nothing unwarrantable, we shall let them carry out what they have begun; merely requiring that the arbitration shall be limited to the issues directly raised in that correspondence, without regard to the trash at the Washington Arms, or to any other differences and claims than those which that correspondence distinctly expresses.

If, on the other hand, my bailiff has so far forgotten a servant's rights and duties as to tolerate, on my behalf, claims from Yankstow which—or the logical consequences of which—only a master could, in law or in equity, entertain, I shall send