

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Charles Spencer v. The Registrar of Titles, from the Supreme Court of the State of Western Australia; delivered the 2nd December 1910.

PRESENT AT THE HEARING :

LORD MACNAGHTEN.

LORD ATKINSON.

LORD SHAW.

LORD ROBSON.

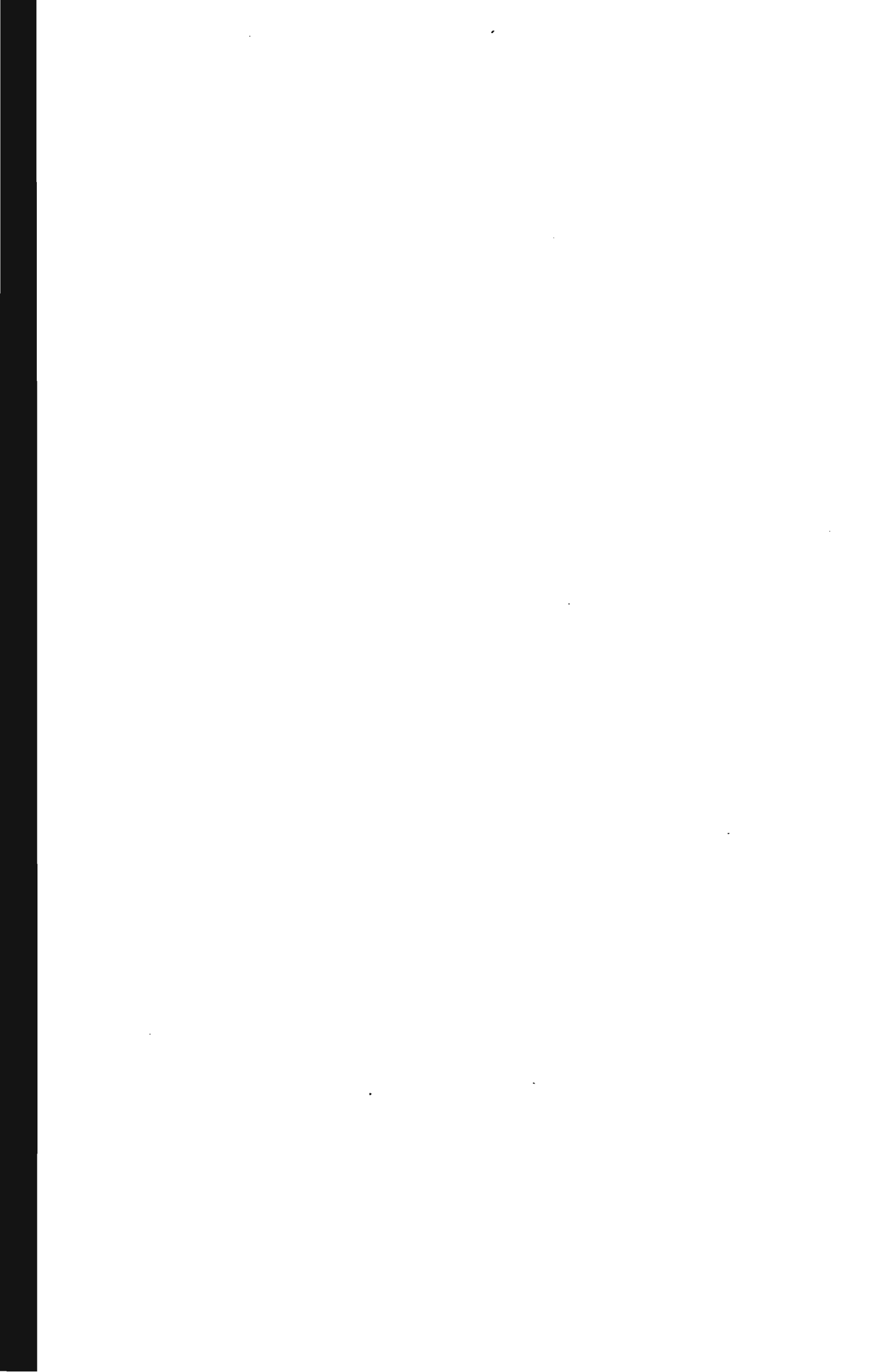
[DELIVERED BY LORD MACNAGHTEN.]

Their Lordships are of opinion that this Appeal fails entirely. The question was really decided by the answer to the third question in the Special Case. The question was: What was the measure of damages? The answer as amended was: That the measure of damages to which the Plaintiff, the present Appellant, was entitled was "the value of Perth Town Lot " No. 8, with the buildings thereon, on the 25th " day of June 1903." That has been found. It appeared that more than the amount so found had been paid into Court and the Appellant has received payment out of the whole sum. Now he asks for interest on the ascertained value of the premises, putting his claim as a claim for mesne profits.

In their Lordships' opinion, in view of the Special Case, mesne profits are out of the question.

The Appellant has got a considerable sum beyond the amount which was the real measure of damages, and it does not appear to their Lordships that he is entitled to anything more.

Their Lordships will, therefore, humbly advise His Majesty that this Appeal should be dismissed with costs.



In the Privy Council.

CHARLES SPENCER

v.

THE REGISTRAR OF TITLES.

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