

COMMENTS ON CURRENT ENGLISH DECISIONS.

(Law Reports for February—Continued.)

ASSESSMENT—RAILWAY TUNNEL—HEREDITAMENT.

In *Metropolitan Railway Co. v. Fowler* (1892), 1 Q.B. 165, the question was as to the liability of the roadbed of the Metropolitan Underground Railway to taxation under a statute authorizing the imposition of taxes on "all and every manors, messuages, lands, and tenements, and also all quarries, mines, iron mills, furnaces, and other iron works; salt springs, and salt works; all alum mines and works; all parks, chaces, warrens, woods, underwoods, coppices; and all fishings, tithes, tolls, annuities, and all other yearly profits, and all hereditaments of what nature or kind soever they may be." It was argued on behalf of the railway company that the interest which the company had in the tunnel through which their railway ran was in the nature of an easement or servitude and was not a hereditament, but the majority of the Court of Appeal (Lord Esher, M.R., and Kay, L.J.) were of opinion that it was a hereditament, and, as such, liable to taxation; but from this view Lopes, L.J., dissented.

WILL.—CONSTRUCTION.—DEVISE TO SEVERAL "AS JOINT TENANTS, AND NOT AS TENANTS IN COMMON, AND TO THE SURVIVOR OF THEM, HIS OR HER HEIRS AND ASSIGNS FOREVER"—WILLS ACT (1 VICT., c. 26) s. 28—(R.S.O., c. 109, s. 30).

In *Quarm v. Quarm* (1892), 1 Q.B. 184, the construction of a will was in question whereby the testator had devised a freehold estate to seven persons as "joint tenants, and not as tenants in common, and to the survivor of them, his or her heirs and assigns forever." The testator died after the Wills Act (1 Vict., c. 26)—(R.S.O., c. 109)—took effect. It was contended that the effect of the devise, as controlled by s. 28 of that Act (s. 30 of Ont. Act), was to make the seven devisees joint tenants in fee, the omission of words of limitation in the first part of the devise being, as it was contended, cured by the statute. But Lord Coleridge, C.J., and Wright, J., considered that "a contrary intention" sufficiently appeared by the will, and therefore that s. 28 did not apply, and that the proper construction of the will was to give the devisees named a joint estate for life, with a contingent remainder in fee to the survivor.

STATUTE—CONSTRUCTION—EJUSDEM GENERIS.

Warburton v. Huddersfield Industrial Society (1892), 1 Q.B. 213, is an illustration of the restriction of general words in a statute by the application of the rule *ejusdem generis*. The statute in question, which incorporated industrial societies, provided that the funds of such societies might be applied in certain specified ways, "or to any lawful purpose," and it was held by Mathew and A. L. Smith, JJ., that the generality of these words must be limited to objects *ejusdem generis* as those specified, and did not authorize the application of the funds to any purpose whatever that was not unlawful.

ADULTERATION—GUILTY INTENT—SALE OF FOOD AND DRUGS ACT, 1875 (38 & 39 VICT., c. 63), s. 9—(R.S.C., c. 107, s. 15).

Dyke v. Gower (1892), 1 Q.B. 220, was a case stated by justices for the opinion of the court, and disclosed that the respondent, a retail milk seller, had poured