

fund belong, in the absence of any direct gift of it, or direction to accumulate it, after the first share has vested? In other words, does it belong to the taker of the first share, or must it be retained by the trustees for those contingently entitled to the rest of the corpus? Chitty, J., was in favour of the latter view; North, J., on the other hand, decided in favour of the first taker. The Court of Appeal have agreed with Chitty, J., and overruled the decision of North, J., *Re Jeffery*, (1891) 1 Ch. 671 (*ante* Vol. 27, p. 332), and *Re Adams*, (1893) 1 Ch. 329, and it was held that the income of the remaining shares was applicable under the Conveyancing Act, 1881, s. 43, to the maintenance of the other members of the class contingently entitled who were infants.

WATERWORKS—DIVERSION OF UNDERGROUND SPRINGS—INJUNCTION—MALA FIDES
—COSTS.

Bradford v. Pickles, (1894) 3 Ch. 53; 8 R. Aug. 183, was an action by a municipal body to restrain the defendant from constructing an underground drill or tunnel which would have the effect of diverting the water from certain springs from which the water supply of the municipality was obtained. The defendant was proposing to construct the tunnel in question ostensibly for the purpose of draining a bed of stone on his own land, but really, as the judge found, for the purpose of compelling the plaintiffs to buy him out. By statute it was provided that "it shall not be lawful for any person other than the (plaintiffs) to divert, alter, or appropriate in any other manner than by law they may legally be entitled any of the waters supplying or flowing from certain streams or springs called *Many Wells* (being the springs in question) . . . or to sink any well or pit, or do any act, matter, or thing whereby the waters of the springs might be drawn off or diminished in quantity." The Act contained no provision for compensating landowners. North, J., decided that what the defendant proposed to do was forbidden by the Act, which, in his opinion, was not very clearly expressed, but which he declined to construe to mean that the acts in question were forbidden except so far as it might be lawful to do them, which, he considered, would be making nonsense of it. In his opinion, it was intended to preserve to the plaintiffs such rights over the waters in question "as an upper riparian proprietor has against a lower riparian proprietor in an open stream; permitting a diversion or alteration, or even an appropriation to a limited extent, but not a diversion