
REVIEW OF CURRENT ENGLISH CASES.

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DAMAGES — SUBSIDENCE — MEASURE OF DAMAGES — PROSPECTIVE INJURY.

Tunncliffe v. Leigh Colliery (1905) 2 Ch. 390 was an action to recover damages occasioned by the subsidence of land caused by defendants' mining operations, and the question of damages was referred to a referee who assessed the damages down to the date of the judgment, but in doing so made an allowance for the present depreciation in value caused by the risk of a future further subsidence. From this finding the defendants appealed, and Eady, J., held that the referee had erred in principle, and that nothing should have been allowed for the possibility of any future subsidence, as to do so might have the effect of compelling the defendants or their successors in title, to pay twice for the same damage.

WILL—CONSTRUCTION—CHARITABLE GIFT—"CHARITABLE, EDUCATIONAL OR OTHER INSTITUTIONS" IN A NAMED PLACE.—(R.S.O. c. 333, s. 6).

In re Allen, Hargreaves v. Taylor (1905) 2 Ch. 400, a testator bequeathed money to trustees, "upon trust for such charitable, educational or other institutions in the Town of Kendal, and also for such other general purposes for the Town of Kendal or any of the inhabitants thereof, as my trustees shall in this absolute, uncontrolled discretion think fit." And the testator without in any way binding the trustees recommended to their attention the claim of four specified charitable institutions of the Town of Kendal. It was contended that the general words in the bequest had the effect of rendering the gift void because it was within the discretion of the trustees to apply the gift to purposes which were not "charitable" within the Statute of Elizabeth (R.S.O. c. 333, s. 6); but Eady, J., upheld the bequest as a good charitable bequest, because, on the true construction of the clause, the purposes for which the money could be applied were all limited to general or public purposes for the benefit of the Town of Kendal and its inhabitants.