

#5. His habits were good and he was of an affectionate and generous disposition. Evidence was received of his intention of helping his father to build a house, of assisting him in paying off a mortgage of \$650 on his property, as well as a debt of \$400, which he owed another son, and for which the father had given his promissory notes.

Held, that the evidence of such expressed intention was properly admitted, not necessarily as shewing a promise to make the payments, but of his being well disposed to his father; but the amount awarded the plaintiff for damages was clearly excessive and unless the parties agreed to a reduction of \$500 there should be a new trial.

Bicknell, K.C., for defendants, appellants. *Proudfoot*, K.C., for plaintiff, respondent.

From Teetzel, J.]

[Dec. 30, 1905.]

HENNING v. TORONTO RAILWAY CO.

Contract — Construction — Vagueness — Renewal — Price to be agreed on.

A provision in a contract for the right to use space for advertising purposes for its renewal "at the end of three years at a price to be agreed upon, but not less than \$5,000 per annum" leaves the matter at large unless the price is agreed upon and the person using the space cannot insist on a renewal at the rate of \$5,000 per annum. Judgment of TEETZEL, J., affirmed.

DuVernet, for plaintiff, appellant. *D. L. McCarthy*, for T. R. Co. *S. B. Woods*, for Street Car Advertising Co.

From Drainage Referee.]

[Dec. 30, 1905.]

IN RE MCCLURE AND TOWNSHIP OF BROOKE.

Drainage—Defective system—Recovery of damages and costs—Subsequent assessment—Drainage Act, s. 95.

The assessment for damages and costs recovered by a person complaining of a defective system of drainage must be made only against the lands included in the drainage scheme complained of. Lands included in an amended scheme undertaken after the right to damages has accrued and claim has been made are not liable. Judgment of the drainage referee affirmed.

Aylesworth, K.C., for appellants. *Wilson*, K.C., for respondents.