

the part sought to be expropriated, it was a reasonable ground for his refusing such leave, that he was about to deal with the surface of the land in a manner inconsistent with the right of the lessee to sink a pit. The arbitrator appointed to fix compensation found as a fact that the right in question had been injuriously affected, and Darling and Bucknill, JJ., agreed that it was properly the subject for compensation.

WILL—TRUST TO ACCUMULATE INCOME WITHIN TWENTY-ONE YEARS—INTESTACY—THELLUSSON ACT (39 & 40 GEO. 3, c. 98)—(R.S.O. c. 111, s. 3.).

In re Travis, Frost v. Grestorex (1900) 2 Ch. 541. The question the Court had to decide in this case was whether the trusts for accumulation of income contained in a will were invalid under the Thellusson Act (39 & 40 Geo. 3, c. 99), (see R.S.O. c. 111, s. 3). By the will in question, the testator devised and bequeathed his estate to trustees upon trust to pay out of the income thereof an annuity of £200 to his niece during her life, and he directed the surplus income of the trust estate to be accumulated and invested until the death of his niece, and subject, and without prejudice, to the trusts aforesaid, his trust estate was directed to be held in trust for the children of his niece living at his decease, or born afterwards, who should attain twenty-one, or who, dying under that age, should have issue living at his or her decease, if more than one, in equal shares; and in case there should be no such issue of the niece, then subject, and without prejudice to the trusts aforesaid, after her death and the failure of her issue, as to one-third of the trust estate for some cousins named in the will, and, as to the other two-thirds, for the trustees of a charity. The action was tried by Hall, Vice-Chancellor of Lancaster, who made a declaration that the trusts for accumulation of the surplus income ceased at the expiration of twenty-one years from the testator's death, and that as to the surplus income of the trust estate, including therein the amount of the twenty-one years' accumulations, there was an intestacy. The annuitant being past child bearing, the trustees of the charity appealed, and contended that, subject to the payment of the annuity, they were entitled to immediate payment of two-thirds of the trust funds and the accumulations from the investments. The trustees of the testator's will also cross appealed on the ground that the will did not effectually give the accumulations to the parties ultimately entitled to the trust estate, but only the