

PRACTICE—CROWN, ACTION ON BEHALF OF—INTERLOCUTORY INJUNCTION—UNDER-TAKING AS TO DAMAGES—ATTORNEY-GENERAL.

*Attorney-General v. Albany Hotel Co.*, (1896) 2 Ch. 696, was an action brought on behalf of the Crown in which the plaintiff applied for an interlocutory injunction, and the question was raised whether the practice of the Court requiring the applicant to give an undertaking as to damages could properly be extended to the Crown. North, J., after a careful resume of several unreported cases, came to the conclusion that the Crown could not be called on to undertake as to damages, and in this view the Court of Appeal (Lindley and Lopes, L.JJ.) concurred.

WILL—CONSTRUCTION—GIFT TO A CLASS ON ATTAINING 21—PROVISION FOR MAINTENANCE—VESTING.

*In re Wintle, Tucker v. Wintle*, (1896) 2 Ch. 711, North, J., was called upon to decide a point on which there were previous conflicting decisions. The question arose upon the construction of a will whereby a testator devised and bequeathed his residuary estate to his children upon their respectively attaining the age of 21: the will also contained a provision enabling the trustees to apply the whole or such part as they should think fit of the annual income of the share or presumptive share of any of the class during their minority for their maintenance. It was contended on behalf of the representatives of some of the children who had died before attaining 21, that the provision authorizing the application of the income for the maintenance of the deceased children had the effect of causing their interest to vest, although they did not attain 21. *Fox v. Fox*, L.R. 19 Eq. 286, a decision of the late Sir Geo. Jessel, M.R., was relied on in support of this contention, but North, J., found that it was opposed to the decision of Hall, V.C., in *Dewar v. Brooke*, 14 Ch. D. 529, and he considered the latter case the preferable authority, and followed it. It would seem from this case that if the testator had given the whole income for maintenance absolutely, and without any discretion to the trustees, to apply a part only, the case would have been different and the shares would in that event be deemed to be vested.