

death the action was brought, was in the employment of the defendant company. The definition of "workman" in the English Act is similar in its terms to that contained in the Ontario Act, s. 2 (3), under which it is necessary that the workman should be one who "has entered into, or works under, a contract with an employer." In the present case one Evans had "entered into a contract with the defendants who were mine owners to sink a shaft in the coal mine. By the contract Evans was to provide such men, called "sinkers," etc., as might be necessary for the work, and was to be paid a certain sum per fathom sunk. Evans accordingly employed the sinkers, of whom the deceased was one, Evans himself acting as "chargeman" in charge of the sinking operations. While engaged in the operation the deceased was killed by a block of wood falling on him, and the action was brought by his administratrix against the mine owners. Wills & Kennedy, JJ., held on an appeal from a County Court that there was no evidence that the deceased was a workman in the employment of the defendants, and therefore that the action would not lie under the Employers' Liability Act; and this opinion was sustained by the Court of Appeal (Smith, Rigby and Williams, L.JJ.).

WATER-COURSE—OBLIGATION OF OWNER OF WATER-COURSE TO REPAIR—EASEMENT—GRANT OF RIGHT TO TAKE WATER—DAMAGE BY FLOOD.

Buckley v. Buckley (1898) 2 Q.B. 608. This was an action to recover damages caused by the defendants' omission to repair the sluice gate of a private waterway, whereby the plaintiffs' premises were flooded. The waterway in question had been constructed by the defendants' predecessors in title, and passed through lands subsequently granted to the plaintiffs' predecessor in title to a mill of the defendants. The defendants' predecessors in title had granted to the plaintiffs the right to take water from the water-course in question; and the defendants sought to escape liability, first on the ground that the plaintiffs, by reason of the grant to use the water, had acquired an implied power themselves to repair the sluice gate in question, and that the damages were attributable to the plaintiffs' own neglect, and, second, that the plaintiffs' was the dominant tenement; and under *Pomfret v. Riccroft*, 1 Wm. Saund. 321, the plaintiffs were bound to do the necessary repairs. Bruce, J., who tried the action, gave judgment for the plaintiffs; and his judgment was affirmed by the Court of Appeal