

able nuisance and affirmed the judgment of Joyce, J. Phillimore, L.J., considered the matter one for police regulation and therefore that the defendants were not liable.

WILL—CONSTRUCTION—CHARITABLE TRUST—"RESIDENCE FOR LADIES OF LIMITED MEANS"—TRUSTEES TO EXPEND RESIDUE "AS THEY KNOW TO BE MOST AGREEABLE WITH MY DESIRES"—PAROL EVIDENCE—SECRET TRUST—COMMUNICATION TO ONE OF TWO TRUSTEES.

In re Gardom, Le Page v. Attorney General (1914) 1 Ch. 662. In this case a will was up for construction, first as to a trust for charity and second as to a bequest of residue. The testatrix who died in March, 1911, by her will, made in 1900, devised and bequeathed her property to Dr. Page and his daughter in trust to sell and convert such portions as may be necessary for the maintenance of a temporary house of residence "for ladies of limited means," and if at any time such house should be considered unnecessary, the money thus set apart was to be distributed by the trustees yearly among such ladies as the trustees might think worthy of such assistance. The will appointed Dr. Page and his daughter executors and directed that they should "expend all or any of the residue of my estate in such manner as they know to be most agreeable with my desires." By codicil in 1903, the testatrix confirmed her will. Dr. Page proved that in 1886 the testatrix told him that she intended to provide for his three children, and that on various occasions she had said she would make a will and leave all to them, and that in 1900 she handed him a duplicate of the will and said, "I have told you many times I was going to make my will and that I would leave all to your dear girls." The last statement was made before or contemporaneously with the execution of the will and Dr. Le Page accepted the trusts, but no statements as to the testatrix's intentions were made by her to his co-executrix prior to the will. Eve, J., held that the trust for the maintenance of the house was a good charitable trust; and he was also of the opinion that the evidence was sufficient to warrant him in declaring that the residue was held in trust for the three daughters of Dr. Le Page. The next of kin appealed on the second point and the Court of Appeal (Cozens-Hardy, M.R., Eady and Phillimore, L.J.J.) reversed his decision on the ground that the evidence failed to establish any trust in favour of the daughters and therefore the next of kin were entitled to the residue.