

that there was no negligence on the part of the plaintiff, and that the defective condition of the shaft would not have caused the injury but for the strain put upon it by the defendants' own act, and therefore that they were liable. The Divisional Court (Lord Alverstone, C.J., and Wills and Channell, JJ.) were, however, able to take a more reasonable view of the case, viz.: That the engine was being drawn as the plaintiff intended it should be drawn to the defendants' station, and that the damage was caused by the inherent defect in the thing carried, and the carriers were therefore not responsible.

WILL—DEVISE OF REAL ESTATE—CONDITION THAT DEVISEE SHOULD TAKE TESTATOR'S NAME—DEATH OF DEVISEE BEFORE ESTATE FALLS INTO POSSESSION—NON-PERFORMANCE OF CONDITION.

In re Greenwood, Goodhart v. Woodhead (1903), 1 Ch. 749. The Court of Appeal (Collins, M.R., and Romer and Cozens-Hardy, L.JJ.) have been unable to agree with the decision of Joyce, J., (1902), 2 Ch. 198 (noted ante vol. 38, p. 670). Property was devised in remainder to one Newsome on condition of his taking the testator's name. The tenant for life was still alive, but Newsome, the devisee in remainder, had died intestate, and had never taken the testator's name. Joyce, J., held that the devise to him failed. The Court of Appeal, however, came to the conclusion that the condition of taking the testator's name was a condition subsequent, *i. e.*, only to take effect on Newsome becoming entitled in possession, and that as he had, by the act of God, been unable to perform it, the estate would, on the death of the tenant for life, vest in his legal personal representative freed from the condition.

PRACTICE—MUNICIPAL CORPORATION—BUILDING BY-LAW—INFRINGEMENT—PARTIES—ATTORNEY-GENERAL.

Leconport v. Tozer (1903), 1 Ch. 759, may be briefly noticed, as the Court of Appeal (Collins, M.R., and Romer and Cozens-Hardy, L.JJ.) affirm a decision of Joyce, J., (1902), 2 Ch. 182, to the effect that an action to restrain an alleged infringement of a municipal by-law relating to building of houses fronting on the public streets of the municipality must be brought in the name of the Attorney-General, and the municipal authority alone cannot maintain the action.