

Lanark in favour of plaintiff in action in that Court for a declaration of the right of the plaintiff Young to the enjoyment of pew number 64 in the Carleton Place Methodist Church, and for an order restraining defendant from interfering with the plaintiff's control and enjoyment of the said pew, and for damages against defendant.

J. J. Maclaren, K.C., for defendant.

J. A. Allan, Perth, for plaintiffs.

The judgment of the Court was delivered by STREET, J.—The church is vested in the trustees, plaintiffs, by 47 Vict. ch. 88 (O.) and 47 Vict. ch. 106 (D.) upon the trusts set forth in schedule B. to each Act, and under paragraphs 2 and 7 of the schedule, the trustees have no power to do as they have done here, viz., allot pews or seats to particular members, unless they rent to them for a money consideration, and not having done so all the seats are free, subject to regulation during service as to seating, and to prevent disorder and overcrowding: *Asher v. Calcroft*, 18 Q. B. D. 607: and any person wilfully disturbing the service in the church may be punished under sec. 173 of the Crim. Code. In this case both the plaintiff Young and defendant claim exclusive rights to the pew. The squabble is not a creditable one to either of them, but it seems to have been aggravated by the uncompromising position taken by defendant. Though there is a general power in the officers of any place of public worship to distribute the members of the congregation in a particular manner at any particular service for the purpose of preventing disorder during service: *Asher v. Calcroft*, supra; *Reynolds v. Monkton*, 2 Moo. & R. 384: that is not the right claimed here. The action must be dismissed without costs, and the appeal allowed with costs.

J. A. Allan, Perth, solicitor for plaintiffs.

Lavell, Farrell, & Lavell, Smith's Falls, solicitors for defendant.

FALCONBRIDGE, C.J.

JANUARY 2ND, 1902.

TRIAL.

THORNDYKE v. THORNDYKE.

Gift—Parent and Child—Bounty not Bargain—Undue Influence—Mental Competence.

Action by Joseph Thorndyke, the executor and son of Elizabeth Thorndyke, deceased, to have a discharge of mortgage executed by her in favour of her son William, the defendant, set aside and its registration vacated, and for a declaration that the mortgage securing \$2,400 is still in full force, and for its payment.