

Full Court.] ANCHOR ELEVATOR CO. v. HENEY. [July 6.

*Jurisdiction—Service of statement of claim out of the jurisdiction—King's Bench Act—Tort—Fraudulent preference—Chattel mortgage given within the jurisdiction to non-resident.*

This was an action to set aside a chattel mortgage given within the jurisdiction to the defendant, whose domicile was in the Province of Quebec, by the debtors, resident in Manitoba, against whom the plaintiffs had recovered a judgment, on the ground that the same was a fraudulent preference under the Assignments Act. The defendant had taken no steps to get possession of the mortgaged goods which were within the jurisdiction.

On defendant's motion to set aside the service of the statement of claim the referee had made an order requiring the plaintiffs to prove at the trial of the action a tort committed in Manitoba within the provisions of Rule 201(e) of R.S.M. 1902, c. 40, or a transfer or conveyance by way of chattel mortgage made in Manitoba fraudulent at common law or under any statute, and that, in default of such proof, there should be a nonsuit and allowing the service to stand.

*Held*, on appeal from that order, that the mere taking of the chattel mortgage was not a tort, that there was no jurisdiction to proceed in the action against the defendant, and that the order should be set aside with costs.

*Emperor of Russia v. Proskomiakaff*, ante, pp. 359, 506 followed. *Clarkson v. Dupré*, 16 P.R. 521, distinguished.

*McClure*, for plaintiffs. *Coyne*, for defendant.

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Full Court.] HAFFNER v. COLDINGLEY. [July 6.

*Commission on sale of land—Meaning of words "completion of the sale."*

Appeal from judgment of MATHERS, J., noted ante, p. 323, dismissed with costs.

*A. J. Andrews* and *Macneill*, for appellants. *Munson, K.C.*, and *Haffner*, for respondents.