

[Jan. 17.]

HAGAR ? O'NEILL ET AL.

*Illegality—Consideration—Mortgage—Foreclosure.*

To an action for foreclosure of a mortgage given to secure part of the purchase money of a house, it is no defence to show that the house was purchased for immoral purposes, and that a part of its price was given in consideration of its suitability for those purposes. The mortgage is entitled to succeed on the strength of the legal title.

Judgment of the Chancery Division, affirming that of STREET, J., 21 O.R. 27, affirmed.

*Shepley*, Q.C., for the appellant.

*Armour*, Q.C., for the respondent.

HOWARD ? HERRINGTON.

*Jurisdiction—Replevin—Tax collector—Venue—County Court—R.S.O., c. 55, s. 4—R.S.O., c. 73, s. 15.*

A tax collector sued for damages in respect of acts done by him in the execution of his duty is entitled to the benefit of R.S.O., c. 73, and under section 15 of that Act, and section 4 of R.S.O., c. 55, a County Court action against him for replevin of goods seized by him and for damages for malicious seizure must be brought in the county where the seizure and alleged trespass took place. The Consolidated Rules as to venue do not override these statutory provisions.

Judgment of the County Court of Hastings reversed.

*J. W. Gordon* for the appellant.

*C. E. Lyons* for the respondent.

TYRELL ? SENIOR ET AL.

*Will—Mortmain—Methodist Church—R.S.O., c. 237—47 Vict., c. 88, s. 6 (O.).*

Section 6 of 47 Vict., c. 88 (O.) does not confer upon the Methodist Church the powers of the Connexional Society of the Wesleyan Methodist Church in Canada to take by devise without reference to the restrictions of the Religious Institutions Act, and a bequest payable out of realty made by will executed within six months of the testator's death was held void.

*Smith v. Methodist Church*, 16 O.R. 199, approved.

*Per* HAGARTY, C.J.O., and MACLENNAN, J.A.: The Methodist Church may take under a gift to "The Missionary Society of the Methodist Church in Canada."

Judgment of GALT, C.J., affirmed.

*J. J. MacLaren*, Q.C., for the appellants.

*R. M. Macdonald* for the respondent.

*C. J. Holman* for the executors.