

not give them such an estate in it as to make their consent or their execution of a conveyance necessary.

The purchaser appeared to think that these legatees were "the persons beneficially entitled" under sec. 21 (1) and (2) of the Devolution of Estates Act, R.S.O. 1914 ch. 119; but the persons there referred to are those beneficially entitled to the land which it is proposed to sell, not the legatees who are to be paid their legacies out of the proceeds of the sale.

Effect could not be given to the objection of the purchaser.

But it would seem that the whole difficulty of the case would not be met by so declaring, as the concurrence of those entitled to the land subject to the payment of the legacies had not been obtained. It was not necessary to decide whether the administrator could make a good title without this concurrence, as, in any case, it was proper to exercise the powers given by sec. 21 (2) (*ad fin.*) of the Act, and dispense with the concurrence of all beneficially interested, thereby enabling the administrator to make title.

No costs.

LATCHFORD, J.

MARCH 16TH, 1917.

*FOSTER v. TOWNSHIP OF ST. JOSEPH.

Assessment and Taxes—Exemptions—Buildings on "Mineral Land"—Assessment Act, R.S.O. 1914 ch. 195, sec. 40(4)—"Mineral"—Trap-rock—Quarry Workings—Question of Exemption Raised in Action—Remedy by Appeal from Assessment under sec. 83 of Act.

Motion by the plaintiff to continue an interim injunction restraining the defendants from proceeding with the sale of certain chattels of the plaintiff, seized for non-payment of taxes levied under an assessment of buildings of the plaintiff, used in connection with their working of a deposit of trap-rock in the township of St. Joseph.

The motion was heard in the Weekly Court at Toronto, and was, by consent of counsel, turned into a motion for judgment.

R. C. H. Cassels, for the plaintiff.

W. E. Raney, K.C., for the defendants.