used by him as a market garden. His wife was, it is said, the tenant of certain other premises some distance from the property rented by the husband, and the husband and wife resided on the lands leased by the wife. The horses and wagon seized were usually kept on the wife's premises, being used by the couple in carrying on their business as market gardeners. Rent became in arrear in respect of the premises leased by O'Rourke in his own name, and the defendant by her bailiff seized the chattels in question on the lands demised to the husband, where they happened to temporarily be when the distress was made. The plaintiff, on becoming aware of the seizure, notified the bailiff that he claimed the horses and wagon as his (the plaintiff's) property under his chattel mortgage from Mrs. O'Rourke. No attention was paid to this claim, and the horses and wagon were sold to satisfy the defendant's claim for rent. Hence the action. At the trial the learned Junior Judge, at the conclusion of the plaintiff's case, thought that there was no cause of action, being of opinion that the articles in question were technically the property of the wife, or that the plaintiff as mortgagee could only claim through the wife, and the claim was therefore in effect the wife's claim. If this was the correct view the articles were, under c. 143, s. 28, not exempt from seizure for rent due by the husband. He dismissed the action with costs. This is an application to set aside that judgment and for a new trial.

I am of the opinion, upon consideration, that the decision of the learned judge was erroneous, and I am glad, after consultation with him, to be able to say that he is now of the like opinion; and we both agree that there should be a new trial. R.S.O., c. 143, s. 28, exempts from seizure for rent goods and chattels the property of any person except the tenant or person who is liable for the rent, although the same are found on the premises. Certain exceptions to this general rule then follow. Goods mortgaged by the tenant—he still having them in his possession on the demised premises—are declared to be liable to seizure for rent. So likewise are goods or chattels on the demised premises claimed by the wife, husband, daughter, son, etc. Goods the property of the wife, but subject to a mortgage made by her, are not stated to be liable; though goods owned by the husband and mortgaged by him are expressly declared to be so. This is a remedial statute, intended to mitigate the harshness of the common law, which allowed generally the seizure of everything found on the demised premises without regard to the question of ownership. A remedial act is to be so construed as most effectually to meet the beneficial end in view, and to prevent a failure of the remedy, and it is laid down that as a general rule it ought to be construed liberally. Here the object of the enactment was to prevent the seizure of the goods of third parties, being upon the demised premises, for rent due in respect of these premises; but it was thought proper to confine this to the goods of third parties outside of the members of the tenant's family and relations living with him, and also to allow the old liability to remain in respect of goods in the possession of the tenant, but claimed by third parties under a title derived by purchase, gift, transfer, assignment, or mortgage, etc., from the tenant himself. This latter branch of the rule was not extended to the goods of the members of the tenant's family where such goods purported to be *bonâ fide* mortgaged, transferred, or assigned by such members of his family to third persons. If the liability to seizure of goods mortgaged by the tenant had not been expressly stated, I have no doubt that a mortgagee of such goods under a *bonâ fide* mortgage could have successfully contested the landlord's right to distrain the same, and could have safely relied upon the general words in the beginning of the section to support his contention. I do not see upon what principle the words which constitute the exception in the case of the tenant himself only can be read into the part of the section defining the position of goods claimed by his wife. I think, therefore, that unless the *bonâ fides* of the mortgage of the goods in question here can be successfully attacked, the mortgagee of the wife is entitled to claim any goods covered by the mortgage, as being exempt from liability to seizure for rent due by the husband of the mortgagor. I have read the case of *Raymond* v. *Close*, reported in 25 C.L.J. 21, but I must respectfully express my dissent from the conclusion arrived at by the learned County Judge upon the facts of that case.