

"matter connected with the good government of the municipality," within the meaning of the enactment.

Held, also, that the High Court would not, in an action by a ratepayer for an injunction, interfere with the conduct of the inquiry by the judge in regard to the admission or rejection of evidence, the examination of ballot papers, compelling witnesses to answer incriminating questions, etc.

Dewart, K.C., for plaintiff. *Fullerton*, K.C., for defendant corporation. *Riddell*, K.C., for defendant Winchester.

Falconbridge, C.J.K.B., Street, J., Teetzel, J.] [Feb. 29.
ONTARIO WIND ENGINE AND PUMP CO. v. LOCKIE.

Conversion—Goods obtained by fraud—Sale to innocent purchaser—Title—
"Agent"—"Intrusted with the possession"—R.S.O., c. 150.

One McK., who was in the habit of taking orders from persons desirous of obtaining the plaintiffs' machines, and forwarding the orders to the plaintiffs to be filled, but who was not employed by the plaintiffs to sell their machines, by a course of falsehood and forgery obtained a machine from the plaintiffs, which he sold to the defendant, and the price of which he received from the defendant, who believed that he was purchasing from McK., and did not know the plaintiffs in the transaction, while the plaintiffs believed they were selling to the defendant, having received an order for the machine and a promissory note for the price, both purporting to be signed by the defendant, whose signature was forged by McK.

Held, in an action for conversion of the machine, that McK. never had any title thereto, and, therefore, at common law could pass none to the defendant, and at common law there was no defence; nor was McK. an agent of the plaintiff, or "intrusted with the possession" of the machine, within the meaning of R.S.O. 1897, c. 159, and therefore the plaintiffs were entitled to succeed. Judgment of the County Court of Waterloo reversed.

Card and Spence, for plaintiffs. *DuVernet*, for defendant.

Boyd, C.] IN RE BETHUNE. [March 2.

Will—Construction—Bequest to widow—Use during lifetime—Power to dispose of moiety by will.

The testator by his will gave to his wife all his real and personal property for her use during her lifetime, and directed that at her death his executors should sell the real and personal property and give one-half the proceeds to his cousin, and that his wife should make her will during her lifetime instructing his executors "who she wishes to give her half to among her relations."

Held, that the widow was entitled to one moiety absolutely and to a life enjoyment of the other moiety.

Middleton, for the widow. *Raymond*, for the executors.