

mortgages that I may be possessed of at the time of my death, for the term of sixty years, and to appoint their successors, and at the expiration of sixty years the property and funds shall be divided to those of my heirs who are members of the Presbyterian Church only, and that have been members of the said Church for at least ten years."

*Held*, that the above clause was invalid as infringing the rules against perpetuity, and in contravention of the provisions of the Thelluson Act, 52 Vict., c. 10, s. 2, O., the whole being held in suspense till the sixty years has expired.

*MacLennan, Liddell & Cline*, for the executors.

*Leitch & Pringle*, for the widow, Margaret Stuart

*Smith & Petit*, and *Maclean*, for the other defendants.

MEREDITH, C.J.]

[March 19.]

CAMERON v. ELLIOTT.

*Change of venue—County Court action—Appeal.*

Motion to change place of trial in a County Court action from Goderich to Toronto, and in the alternative by way of appeal from the order of Mr. Cartwright, sitting for the Master-in-Chambers, dismissing an application for the same purpose made to him.

*Held*, following *McAllister v. Cole*, 16 P.R. 105, that no appeal lay from the order of the Official Referee, and that a second application for the same purpose not based upon any new state of facts arising since the first application was made, cannot succeed, though the order was made in the case of *Milligan v. Sills*, 13 P.R. 350. In this latter case the point was not fully argued, and Armour, C.J., who delivered the judgment of the Court, does not think the decision one which according to the provisions of the Law Courts Act, 1895, prevents Meredith, C.J., from coming to what he takes to be the proper conclusion according to the practice of the Court.

Motion dismissed. Costs in cause.

*Beatty*, (W. J. Elliott) for defendant.

*W. E. Middleton*, for plaintiff.

FALCONBRIDGE, J.]

[March 22.]

HARKLEY v. TORONTO GENERAL TRUSTS CO.

*Security for costs—Temporary absence.*

Motion by way of appeal from the order of Mr. Cartwright, acting for the Master-in-Chambers, requiring plaintiff to give security for costs, upon the ground that he resides out of the jurisdiction. It appeared that plaintiff went to British Columbia about nine months prior to the date of the writ of summons, and has ever since remained there, moving about from place to place prospecting for gold mines, but he swears that he intends to return to Ontario.

Plaintiff contends on these facts that he is only temporarily absent, and should not be required to give security.

Appeal dismissed, but time for giving security extended to six months. Costs in cause.

*Jas. Ross*, for plaintiff.

*H. Cassels*, for defendants.