

edifice remained undisposed of until June, 1918. In the meantime many expenditures, such as heating, caretaking, etc., were made by Dr. Murray out of the funds in his hands.

After the amalgamation, the name "Erskine Church," as applied to the congregation, was dropped, and the united churches became known as St. Paul's.

It was urged on behalf of certain of the heirs or residuary devisees of Ann Jane McBurney that, as Erskine Church ceased to exist after the merger of 1915 or the sale of 1918, so much of the legacy as was unexpended by Dr. Murray for the church as a worshipping body or as a building reverted to the estate.

It was said that a personal trust was created by the will and that that trust had failed.

Such a contention might prevail if the legacy had not been paid; but, in the circumstances of this case, it had no value.

The two legacies received by Dr. Murray were applied by him during his lifetime strictly for the purposes designated. Even if he had not so used them, it would not be open to the heirs or devisees to question his administration of the funds. That was a matter affecting his *cestuis que trust*. The worshipping body of Erskine Church existed in St. Paul's, and the mortgage might be transferred to the pastor or managing board of that church.

No order as to costs.

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LATCHFORD, J.

DECEMBER 10TH, 1920.

BRENNER v. AMERICAN METAL CO.

*Bankruptcy and Insolvency—Assignment to Authorised Trustee under Bankruptcy Act, 1919—Effect of—Sec. 10—"Property"—Sec. 2 (dd)—Causes of Action—Action for Breach of Contract—Leave to Assignee to Proceed with Action Begun before Assignment—Con. Rule 300.*

Application by the plaintiff for an order that Osler Wade, an authorised trustee under the Bankruptcy Act, be permitted to proceed with this action, which was begun on the 6th November, 1920.

The application was heard in the Weekly Court, Toronto.  
H. H. Shaver, for the plaintiff.  
G. R. Munnoch, for the defendants.