

1875. sary to consider the constitutional question of the power
 of the Crown to grant a license in Mortmain in Canada.

Ferguson
 v.
 Gibbon.

The plaintiff's counsel sought no declaration as to the bequest to the "poor of Callendar."

There is no case for marshalling in favor of the charities. The rule is, that the Court will not marshal in such cases: *Mogg v. Hodges* (a); but the testator himself may: *Wills v. Brown* (b) *Miles v. Harrison* (c). Here the testator has not done so.

Judgment. The bequests to the College and to the schemes of the Church of Scotland, will be declared void. A reference must be made to the Master to take the accounts of the estate, and ascertain the proportion of pure personalty to impure, and make an abatement accordingly.

As the suit was necessary for the administration of the estate, the costs of all parties must be paid out of it.

Any parties interested, not now before the Court, may be summoned in the Master's Office.

(a) 2 Ves. 58.

(c) L. R. 9 Eq. 316.

(b) L. R. 16 Eq. 487.