

hended a class, and therefore the plaintiff must fail. *Stobart v. Guardhouse*, 239.

2. *Devises to Charities*—*Mortmain*—*Failure of bequests*—*Incorporated Synods*—*Power to hold in Mortmain*—

R. P. L., by his will directed his executors "by and out of the moneys which shall be received by them from the P. B. & M. Co., for or on account of the debt or sum of \$35,000 owing and secured by mortgage by that Company to me at the time of my decease, and of the interest thereof which shall accrue after my decease, in the first place to pay the sum of \$1,500, part thereof to the Bishop for the time being of Algoma in Canada, to be invested by him in or upon any of the investments hereinafter authorized with power for the Bishop of Algoma aforesaid for the time being, from time to time to vary and transpose the investments thereof at his discretion for any other or others of the kind prescribed and the income of such investments to be applied in and for the education and qualifying of John Eskinah an Algoma Indian, at present of the Shingwauk Home, Sault Saint Marie, Algoma, aforesaid, (heretofore supported by me) as and for a Missionary in the Diocese of Algoma aforesaid, for and during, and until such time as the Bishop of the said Diocese for the time being shall consider sufficiently qualified for such purpose, and upon and after the completion of such education and qualifying to apply such income as aforesaid forever thereafter from time to time in and for the education and qualifying of some other person to be nominated by such Bishop for the time being for a like purpose, and during such time as he shall think proper; but for which applications

the Trustees and Executors shall not be responsible. And after payment of the aforesaid legacy I give and bequeath the following legacies to be paid out of the same fund or moneys, namely:

"To the Treasurer for the time being of the Algoma Missions in British America the sum of \$1,500 of Canadian Currency for the benefit of those Missions.

"To the Treasurer for the time being of the Huron Missions in British America, the sum of \$1,500 of the aforesaid Currency for the benefit of those Missions.

"And to the Treasurer for the time being of the Ontario Missions in British America, the sum of \$2,500 of the aforesaid Currency for the benefit of those Missions."

*Held*, that the bequest to the Bishop of Algoma for the benefit and education of John Eskinah and others was intended to set apart a fund which was to have perpetual continuance and in which no individual was to have a personal right, and following *Gillam v. Taylor*, L. R. 16, Eq. 584, such bequest was void.

*Held*, also, that the bequest to the Treasurer for the Algoma Missions was a charitable gift and must fail, because no person or body was empowered to hold it as against the Statute of Mortmain, 9 Geo. 2 ch. 36, inasmuch as there was no incorporation of Algoma for Ecclesiastical or Missionary purposes with such powers.

*Held*, also, that the bequests to the Treasurers of the Huron and Ontario Missions respectively were intended for the Missions sustained by the Incorporated Synods of the Dioceses of Huron and Ontario, and that by virtue of their Acts of Incorporation both these Dioceses were enabled to hold lands, &c., in Mort-