HON. MR. JUSTICE HODGINS.   OCTOBER 27TH, 1913.

RE McKEON.

5 O. W. N. 190.

Will—Construction—Gift to Trustee—Fund " to be Expended for the Education and Support of Testator's Niece " — Right of Beneficiary to Unexpended Balance.

HODGINS, J.A., *held*, that where there is a gift to a trustee for the education and support of a named beneficiary, the latter is entitled to the fund absolutely upon coming of age.
Hanson v. *Graham*, 6 Ves. 249, referred to.

Motion by the trustee under the will of Albert McKeon deceased, for the construction thereof.

T. J. Murphy, for trustee, Mary A. Crotty.

J. B. McKillop, for next of kin.

J. F. Faulds and P. H. Bartlett, for Angela Crotty.

HON MR. JUSTICE HODGINS:—The words of the will in question were as follows:—

" The balance of my estate . . . he " (the executor) " shall sell and hand over the proceeds to Mary A. Crotty, of St. Columban, to be held by her in trust, and to be expended by her for the education and support of my niece Angela Crotty now attending the Ursuline Academy in Chatham."

Angela Crotty at the death of the testator was a minor. She is now of age, and contends that she is entitled to have the balance of the estate which the will deals with, handed over to her. It is said that the trustee received about $5,000 and has expended about eight or nine hundred dollars for Angela's education and support; that part is in the bank, and that the balance is invested on the security of a promissory note.

I think this case falls within the line of decisions which hold that where an entire fund is given, and a purpose, such as education and support, is assigned as the motive of the gift, the beneficiary takes the whole fund absolutely. See *Hanson* v. *Graham,* 6 Ves. 249; *Re Sanderson's Trusts* (1857), 3 K. & J. 497; *Younghusband* v. *Gisborne* (1844), 1 Coll. 400; *Re Stanger* (1891), 60 L. J. Ch. 326.

In the latter case Chitty, J., observes, on the terms of the gift, (p. 327): " It is material to observe that it is not framed as to make it the duty of the trustees to apply the