

It was objected on behalf of the residuary legatees that, because the power of appointment, by the terms of John's will, was to be exercised in favour of a person or persons, and had been exercised in favor of a corporation, it was ineffective.

But the Synod is a "person:" *Willmott v. London Road Car Co.*, [1910] 2 Ch. 525; *In re Jeffcock Trusts* (1887), 51 L.J. Ch. 507; Interpretation Act, R.S.O. 1914 ch. 1, sec. 29 (x). This objection failed.

It was urged, in the next place, that the gift was not a charitable one: that it was only a gift to the individual who should be Rector at the death of the testatrix and therefore void, and that if any other meaning was to be attached to the words "Rector for the time being," the gift would offend against the rule as to perpetuities.

It was conceded that a gift for religious purposes is *prima facie* a gift for charitable purposes, and that a good charitable gift is not subject to the rule against perpetuities.

*Re McCauley* (1897), 28 O.R. 610, referred to and distinguished.

The plain intention of Mary Ann McDonagh was, not to confine the devise to the person who at the time of her death happened to be Rector, but to extend it, upon his death or removal, to the person who should be his successor from time to time.

Reference to *In re Daniels* (1918), 87 L.J. Ch. 661.

The words used by the testatrix indicated what was in effect an increase of the Rector's stipend by the provision of a rectory-house for him, which was a good "religious purpose" and a good charitable devise for "the advancement of religion," within the Mortmain and Charitable Uses Act, and not a restriction or limitation of the devise to any particular Rector.

Reference to *Attorney-General v. Cock* (1751), 2 Ves. Sr. 273; *Attorney-General v. Sparks* (1753), *Ambl.* 201.

By 39 Vict. ch. 107, 54 Vict. ch. 100, 55 Vict. ch. 106, and 61 Vict. ch. 72, the Synod of the Diocese of Niagara is created a corporation; and, subject to the Mortmain and Charitable Uses Act, R.S.O. 1914 ch. 103, may hold and sell land devised to it by will for any charitable uses.

The power of appointment had, therefore, been validly and effectively exercised in favour of the Synod, and the Synod took the land in fee simple, subject only to sec. 10 of the Mortmain and Charitable Uses Act.

Sophia Bell took a vested interest in the lands directed to be conveyed to her, and the devise to her did not lapse.

It was conceded and should be declared that the testator (John) could not, as he attempted to do, attach a forfeiture to an absolute gift, and that the consent of the residuary legatees