

The moneys in question were not covered by the assignment to the plaintiffs. It was argued that, as the book-debts resulted usually from a sale of the goods, the goods themselves and the moneys arising by reason of their destruction must be covered by the words used; but unsold goods could not be so regarded: Halsbury's Laws of England, vol. 10, p. 441; *Turner v. Turner* (1880), 14 Ch. D. 829; *Newman v. Newman* (1858), 26 Beav. 220; *Ex p. Dawes* (1886), 17 Q.B.D. 275, 286; *Orr v. Mitchell*, [1893] A.C. 238, 251; *Tailby v. Official Receiver* (1888), 13 App. Cas. 523, 533; *Norton on Deeds*, pp. 56, 58, 62, 227.

Action dismissed with costs.

HODGINS, J.A.

JULY. 5TH, 1916.

*RE ZEAGMAN.

Will—Construction—Residuary Gift of Mixed Fund to Church for Masses for Repose of Soul of Testator and Descendents forever—Superstitious Use—Perpetuity—Charity—Private Masses—Public Benefit—Costs.

Motion by the executors of John Zeagman the elder, deceased, for an order determining a question arising upon the residuary clause of the will of the deceased.

The testator, who died in 1895, by his will gave to his executors all his estate upon trust: to pay his just debts, funeral and testamentary expenses; to pay \$100 at once for Masses for the repose of the testator's soul; to allow his wife and two daughters the rents and interest of the remainder of his property for their lives and the life of each of them; after the deaths of his wife and daughters to sell and get in all his real and personal estate and from the proceeds pay \$100 to each of the children of his son Charles; "and pay over all the residue of my estate to the St. Basil's Roman Catholic Church of Toronto to be invested and kept invested in such funds as the Most Reverend Archbishop of the Diocese of Toronto and his successors may think best forever and the interest arising from such investment or investments to be applied and expended by the Reverend Clergy of the said Church for the saying of Holy Masses by said Clergy for the repose of the soul of the testator and his descendants forever."

The widow and one daughter were dead, and the surviving life-tenant was an executrix, who, if the residuary gifts to the