

but North, J., decided that there was no express trust within the meaning of the statute, and that the right to recover the legacy was therefore barred. He held that there was a clearly marked distinction between the legacies and the residuary estate, as to which latter it was expressly declared that the trustees were to hold in trust. He, however, dismissed the case without costs.

INFANT—JURISDICTION—GUARDIAN—RELIGIOUS EDUCATION OF INFANT—GUARDIANSHIP OF INFANTS ACT, 1886 (49 & 50 VICT., c. 17), ss. 2, 3, 6, 13 (R.S.O., c. 137, ss. 13, 14).

*In re McGrath* (1892), 2 Ch. 496, was an application respecting the guardianship and religious education of infants. The father and mother of the infants were, during the father's life, both Roman Catholics. The father died in 1888, leaving five children who had all been baptized as Roman Catholics, but the father had expressed no wish as to the religious education of his children, and during his lifetime they, to his knowledge, sometimes attended a Protestant Sunday-school and Protestant places of worship. In 1886, the eldest boy, then ten years of age, was, with the father's consent, placed in an industrial school conducted on the principles of the Church of England. The eldest girl, who was born in 1877, was, from 1885 down to the father's death, educated chiefly at a Roman Catholic school, but during the six months immediately preceding his death she attended occasionally a Board school. Two younger girls, born respectively in 1879 and 1881, from November, 1885, to April, 1888, were educated in a Roman Catholic school, and just before the father's death they were placed in a Roman Catholic establishment, but while there they occasionally attended a Protestant school on Sundays. After the father's death, the mother, who was in poor circumstances, under the Guardianship of Infants Act, 1886 (R.S.O., c. 137, s. 14), appointed a benevolent lady, a member of the Church of England, who had befriended her, to be guardian, after the mother's own death, of the three girls and the younger boy, who was born in 1886. In April, 1890, the three girls were taken from the Roman Catholic school at which they had been educated and sent to a Board school. The two younger girls remained there till their mother's death in July, 1891. The elder girl was in December, 1890, by the lady's direction, placed in an industrial home conducted on the principles of the Church of England. Immediately after the mother's death, the other two girls were also sent there. Before her death the mother became a Protestant. The younger boy, after the mother's death, went to live with a maternal uncle, who was a Roman Catholic. In November, 1891, a paternal great-aunt instituted these proceedings, asking that the guardian appointed by the mother might be removed, and two Roman Catholics appointed in her place. The contest was really as to the religion the children should be brought up in. North, J., although of opinion that if the application had been made immediately after the father's death a direction might have then been properly made to bring the children up in their father's religion, yet, having regard to all the circumstances, considered it would not be for the welfare of the children that the guardian should be removed, and that no direction ought to be given as to the religious education of the children. In arriving at this conclusion, he stated that he considered that