

Chan. Div.]

NOTES OF CANADIAN CASES.

[Prac.]

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 money, namely:—

To the Treasurer, for the time being, of the Algoma Mission 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 Mission 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 *Gilland 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, c. 36, in as much as there was no incorporation of Algoma for ecclesiastical or missionary purposes with such powers.

Held, also, that the bequest 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 the Dioceses were enabled to hold lands, etc., in mortmain, and that such bequests therefore did not fail either for uncertainty or because they could not be held by their respective defendants.

Lash, Q. C., and *J. Mayne Campbell*, for the Bishop of Algoma and A. H. Campbell.

Walkem, Q. C., for the Synod of Ontario.

Betts, for the Synod of Huron.

Moss, Q. C., for the next of kin.

PRACTICE.

Rose, J.]

[Dec. 5.]

MACDONALD v. NORWICH UNION INS. CO.
CLARKSON v. FIRE INS. ASSOCIATION.

Examination in discovery—Rule 224, O. J. A.

One McLean was insured in the defendant companies and becoming unable to meet his engagements, he assigned the policy in the Norwich Union Ins. Co. to the plaintiff, Macdonald, a creditor, to secure his debt, and the policy in the Fire Ins. Association to the plaintiff, Clarkson, as trustee for the benefit of creditors. These actions were brought up on the policies by the assignees.

The order of the Master in Chambers for the examination of McLean for discovery, under Rule 224, O. J. A., as a person for whose immediate benefit the suits were being prosecuted, was affirmed on appeal.

Shepley, for the appeal.

Wallace Nesbitt, contra.

Rose J.]

[Dec. 5.]

KINNEAR v. BLUE.

Judgment against married woman—Rule 80, O. J. A.

A motion for judgment under Rule 80, O. J. A. against the defendant a married woman.

Held, that since 45 Vict. (O). c. 19, where there is uncontradicted evidence of separate trading, separate credit and separate estate of a married woman, and an uncontroverted liability for the debt sued for, judgment may properly be entered against the married woman under Rule 80, O. J. A., with execution against her separate estate only.

F. E. Hodgins, for the motion.

J. B. O'Brian, contra.