

Merrimack, }  
Dec. 1, 1914. }

CHARLES F. M. STARK, *Ap't*, *v.* ARTHUR WINSLOW.

PROBATE APPEAL. The plaintiff was cited into the probate court to settle his account as trustee under the will of Harriet Stark. The court not only charged him with the accumulated income of the trust fund, but ordered him to pay it to St. Paul's School, and from the latter part of the decree he appealed. At the April term, 1914, of the superior court, the appeal was dismissed by *Branch, J.*, and the plaintiff excepted.

*Martin & Howe* (*Mr. Howe* orally), for the plaintiff.

*Samuel C. Eastman* (by brief and orally), for the defendant.

*Foster & Lake*, for St. Paul's School.

YOUNG, J. The probate court has no jurisdiction of the distribution of personal property passing by will. P. S., c. 196, s. 6. Consequently it had no power to make the decree appealed from. The order must therefore be,

*Appeal sustained: decree of the probate court vacated in so far as it relates to the distribution of the accumulated income.*

All concurred.

Coös, }  
Dec. 1, 1914. }

ALFRED A. ST. PIERRE *v.* PEERLESS CASUALTY CO.

ASSUMPSIT, upon a contract to indemnify against loss of time from accidental bodily injury. Trial by the court. Transferred from the April term, 1914, of the superior court by *Sawyer, J.*

The plaintiff, having suffered injury, furnished the defendants satisfactory proof in which he claimed \$82.50 for six weeks' total disability. The defendants sent him a check for \$61.50, with a letter stating that payment was allowed for only four weeks' total