

One John Marks Stewart was in his lifetime insured under certain policies of life insurance in 16 companies, aggregating a face value of \$19,306.65. One of them for \$1,000 was by its terms made payable to his mother, Agnes Stewart, and two others for \$1,000 each to his estate. All the other policies were made payable to his wife, and in case she predeceased him to his executors, administrators and assigns. He made a will dated 19th January, 1909, and died on the 25th May, 1912. Letters probate issued to the executors named in the will on the 20th June, 1912. The testator left him surviving his widow and five sons and daughters, three of whom are infants.

The executors did not include in their inventory of the testator's estate any of the moneys secured by said policies, except the sum of \$2,000, representing the amount of the two policies payable to the estate of the deceased; and, in an affidavit filed by one of them, he states that their reason for this was, chiefly, "that the will did not identify the policies," and he thought, "that the will did not make a valid re-appropriation."

The will contains the following clauses: "I give, devise and bequeath all my real and personal estate, including my life insurance policies, of which I may die possessed in the manner following, that is to say:—

"To my executors and trustees hereinafter named and appointed in trust to call in and convert the same into money in trust to stand possessed of the fund thereby created for the following purposes and trusts, that is to say:—

"(1) To pay to my daughter Rena Stewart the sum of one thousand dollars, which bequest is in addition to all other benefits which she is entitled to receive under this my will.

"(2) To pay to my mother Agnes Stewart the proceeds of my life insurance policy in the Independent Order of Foresters.

"(3) To invest the balance in first mortgages of real estate in the names of my trustees or in guaranteed investments of the Trusts and Guarantee Company, Limited, with power to vary such investments from time to time, with power to retain investments made by me in my lifetime as long as they shall think proper.

"(4) To pay to my wife Sarah Stewart the income arising from one-half of the said trust fund during the term of