

Townshend, J.] GREENWOOD v. HOME LIFE INS. CO. [Jan. 2.

*Life insurance—Premium note—Condition as to non-payment not indorsed on face of policy, R.S.C. c. 124, s. 27.*

G. made application for a policy of insurance upon his life in the defendant company, the amount insured to be paid in case of the death of the insured to plaintiff. The defendant company accepted the risk, and issued and delivered the policy, the premium upon which was to be paid half-yearly in advance. G. paid the first premium partly in cash and partly by giving his promissory note payable two months after date. The form of application signed by G. contained an agreement on his part that if any note given for the first or any subsequent premium or any part thereof were not paid when due, any policy issued under said application should cease to be in force without any notice or action on the part of the company. The note given by G. fell due on the 18th July and was not paid. G. died on the 7th August, and after his death the amount due on the note was tendered to the company and refused.

*Held, 1.* The stipulation avoiding the policy for non-payment of the note was inoperative, not being set out on the face of the policy in compliance with the provisions of R.S.C. c. 124, s. 27.

2. Under all the circumstances of the case the note given by G. and accepted by the company was an absolute payment.

3. Plaintiff was entitled to judgment for the amount of the policy with costs, less the amount unpaid on the note.

*W. E. Thompson, for plaintiff. J. W. Longley, A.G., for defendant.*

Townshend, J.] IN RE GOUGH. [Jan. 2.

*County Court judge—Jurisdiction of judge—Acting in case of illness—Writ of possession—Acts of 1889, c. 9, s. 12.*

Under the provisions of the Acts of N.S., 1889, c. 9, s. 12, whenever by reason of sickness, disability, etc., any judge of a County Court shall be unable to act, or shall be disqualified from acting, such judge may call in and designate any other judge of any other County Court in this province to act therein, and such judge so called in and designated as aforesaid shall have the same powers as the regular judge of such court would have otherwise had.

S., who was designated by the judge of the County Court for district No. 1 to act for him in his absence on account of illness, heard an application for a writ of possession.

After the death of the District Judge, S. gave judgment in favour to the applicant for the writ, and application was thereupon made to TOWNSHEND, J., at Chambers, for a writ of prohibition to prohibit S. from signing the order on the ground that his authority to act terminated with the death of the judge for the district.