

# The Ontario Weekly Notes

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## HIGH COURT DIVISION.

KELLY, J.

JULY 31st, 1917.

\*RE RUTHERFORD.

*Insurance—Life Insurance—Will—Identification of Policy—Beneficiary—Stepmother—Preferred Class—Ontario Insurance Act, R.S.O. 1914 ch. 183, secs. 171 (5), 178.*

Motion by the executor of the will of Arthur G. Rutherford, deceased, for an order determining the question whether, having regard to the provisions of the will of the deceased and the form of an insurance policy (No. 977403a) issued by the Metropolitan Life Insurance Company for \$1,000 on his life, the proceeds of that policy should be paid according to the terms of the will.

The testator died in action on the 13th September, 1916. The policy referred to was dated the 19th November, 1913, and provided that, in the event of the death of the insured before the 19th November, 1933, the insurance moneys were to be paid to "Ruth E. Rutherford, stepmother of the insured." In the will, the testator referred to other insurance which he called "city insurance," i.e., another insurance for \$1,000 in the same company, which had been issued on the testator's life on his enlistment for overseas service, the policy being one of a large number taken out by the Corporation of the City of Toronto on the lives of residents of Toronto who had so enlisted.

The will disposed of \$2,000 of insurance, in various sums, among eight persons, \$1,000 of which he directed should go to "my mother R. E. Rutherford;" and there was a later direction that, "in case I do not receive city insurance, the above will be void and the Metropolitan Life will go to my mother."

\*This case and all others so marked to be reported in the Ontario Law Reports.