

With respect to the second question, he was referred to *Kendler v. Bernstock* (1915), 33 O.L.R. 351, and had also considered *Baines v. Curley* (1916), 38 O.L.R. 301; *Benson v. Smith & Son* (1916), 37 O.L.R. 257; and *In re Sear and Woods* (1893), 23 O.L. 474. Having regard to these cases, the answer to the second question must be in the affirmative, even though it has the anomalous result of establishing the jurisdiction of the Court to award a personal judgment by the mere assertion of a lien-claim, unfounded not only in fact but in law.

No difficulty arises as to the third question, in this particular case. The land is in the district of Rainy River; and by the amending Act of 1916, 6 Geo. V. ch. 30, sec. 1, substituting a new section for sec. 33, the action is to be tried by the Judge of the District Court of the district in which the land lies—a Judge appointed by Dominion authority. The enactment is within the scope of provincial authority. Question 3 should be answered in the affirmative.

Judgment accordingly; costs in the cause.

SUTHERLAND, J.

APRIL 23RD, 1918.

BAKER v. ORDER OF CANADIAN HOME CIRCLES.

Insurance (Life)—Beneficiary Certificate—Constitution and Laws of Benefit Society—Monthly Assessment Unpaid at Death of Member—Reinstatement not Applied for—Ontario Insurance Act, R.S.O. 1914 ch. 183, sec. 188 (1)—Custom as to Payment of Assessments—Sum Coming to Assured under Scheme for Distribution of Reserve Fund, but not Payable at Time of Death.

Action to recover \$3,000 upon a beneficiary certificate for that amount issued by the defendants to one Rachel A. Baker on the 21st March, 1893, payable, in the event of her death, to Slade Baker, her husband.

Rachel A. Baker died on the 11th October, 1914. On the 22nd December, 1914, Slade Baker assigned all his interest under the certificate to his son Daniel Baker.

This action was begun, in the name of Slade Baker as plaintiff, on the 2nd January, 1915. Slade Baker died on the 15th October, 1915, leaving a will of which he appointed his son Daniel executor; he also appointed another executor, who renounced.