

ROBERTSON, J. : I think it clear that the Provincial Provident Institution has no power to make a by-law which will do away with the effect of s. 39 of 55 Vict., c. 39 ; in fact, without that section, I think it contrary to the spirit of the Act to secure to wives and children the benefit of life assurance, R.S.O. c. 136, to authorize anything on the part of the assured which will subvert or interfere with the amount payable under the policy for the benefit of the wife and children ; the moneys payable under the policy in question do not belong to the estate of the assured, the assured having predeceased the beneficiaries. If the assurers have the right to deduct this debt which the assured contracted with them—the \$90.26 note referred to—the assured could have encumbered the policy to the full amount thereof, thus frustrating the very object of the Act ; to secure the amount to his wife and children. I therefore am of opinion that the institution must pay the whole amount secured by the policy into court, with costs of official guardian to him.

Common Pleas Division.

Div'l Court.]

[June 29.

VILLAGE OF LONDON WEST v. LONDON GUARANTEE AND ACCIDENT CO.

Insurance—Employee's guarantee contract—Renewal—Ontario Insurance Corporations Act, 1892, s. 33, s-s. (2)—Condition—Misstatements—Materiality.

By a contract in writing, made in 1890, the defendants agreed to guarantee the plaintiffs against pecuniary loss by reason of fraud or dishonesty on the part of an employee during one year from the date of the contract, or during any year thereafter, in respect of which the defendants should consent to accept the premium which was the consideration for the contract. The defendants accepted the premium in respect of each of the three following years, and gave receipts entitled "renewal receipts," in which the premiums were referred to as "renewal premiums."

Held, that the contract was a contract of insurance made or renewed after the commencement of the Ontario Insurance Corporations Act, 1892, within the meaning of s. 33 ; and, upon the true construction of s-s. (2), could not be avoided by reason of misstatements in the application therefor, because a stipulation on the face of the contract providing for avoidance of such misstatements was not, in stated terms, limited to cases in which such misstatements were material to the contract.

E. R. Cameron for the plaintiffs.

J. Pearson and *W. R. Riddell* for the defendant.

Div'l Court.]

[June 29.

HANES v. BURNHAM.

Slander—Privileged occasion—Interest—Duty—Belief—Express malice—Burden of proof—Evidence—Notice of action—Public officer.

The plaintiff, the wife of a postmaster, complained of certain defamatory words spoken by the defendant, an assistant post-office inspector, to the effect that she had taken money from letters and had given him a written confession of her guilt.