*WILSON v. HICKS.

Life Insurance—Assignment of Policy to Stranger—Gift—Delivery—Intention—Evidence—Revocation—Construction of Assignment — Designation of Beneficiary — Insurance Act, sec. 151.

Appeal by the plaintiff from the judgment of a Divisional Court, 21 O.L.R. 623, setting aside the judgment of BRITTON, J., at the trial, which declared the plaintiff to be entitled to the money due under an endowment policy, and that an assignment of the policy to the defendant had been effectually revoked.

The appeal was heard by Moss, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

I. F. Hellmuth, K.C., and W. H. Best, for the plaintiff.

W. Proudfoot, K.C., for the defendant.

MACLAREN, J.A. (after setting out the facts) :—I find myself unable to agree with the trial Judge as to the assignment in question being a "declaration designating a beneficiary" within the meaning of the Insurance Act, R.S.O., ch. 203, sec. 151, or in his conclusion that it did not transmit to the defendant the title to the money represented by the policy in question, or as to the delivery of the assignment.

The subject of the gift was substantially the insurance money and not the policy. The assignment is on its face an absolute one, and fully complies with sec. 58, sub-sec. 5 of the Judicature Act, which provides that "any assignment . . . by writing under the hand of the assignor of any debt or other legal chose in action of which express notice in writing shall have been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be effectual in law to pass and transfer the right to such debt or chose in action from the date of such notice," etc.

What the plaintiff did went even beyond this. He had obtained from the company two of their forms of absolute assignment. One of them he sent (duly signed and witnessed) to the company, which they acknowledged in the letter of the Tor-