

trustee of the money payable under the policy, and it is declared that payment made to such trustee shall discharge the company; and said that he saw no escape from the plain terms of the enactment, that the company, by so paying, had been discharged. There was no breach of trust in making payment to the trustee named in the will, who was also a statutory trustee to give a discharge. The breach of trust might have arisen afterwards through the dissipation of the principal by the trustee, but of this the company had no notice when they made the payment, and they could have no foreknowledge of it. The company could not be regarded, therefore, as participants in any breach of trust.

No cases are against this conclusion. True, there is some language in a judgment of my own, *Scott v. Scott*, 20 O. R. 315, which, read apart from the subject-matter of decision, may be taken as saying that a trustee appointed by the insured by will was not a competent trustee if he had also other trusts devolved upon him antagonistic to or inconsistent with those to be exercised in regard to the beneficiary insurance moneys. That inconsistency does to some exist in the present will, so that, if the trustee had done with the money as directed, he would have violated the direction of the statute. I refer to the clause which directs the payment of debts to be made in part out of these insurance moneys, which the statute exempts from the payment of the testator's debts. But I must take it that the testatrix knew this, and acted with an intention to trust her husband to do what was right with the insurance money, and that it should be paid into his hands on her death. . . .

[Reference to *Scott v. Scott*, supra; *Campbell v. Dunn*, 22 O. R. 98; *Dodds v. Ancient Order of United Workmen*, 25 O. R. 570; *Cleaver v. Mutual Reserve Fund Life Association*, [1892] 1 Q. B. 147, 153.]

Appeal dismissed, without costs; this because the trial Judge might well have given no costs on account of the state of the cases herein mentioned.

MAGEE and LATCHFORD, JJ., concurred.