

land is void. Costs to the guardian of the infants, to be paid by the petitioner.

M. Lockhart Gordon, for the appellant. *J. R. Meredith*, for infants and all persons interested in opposing the petition.

Britton, J.]

WILSON v. HICKS.

[Feb. 2.

Life insurance—Assignment of policy to stranger—Absence of delivery—Gift—Intention—Revocation—Insurance Act.

The plaintiff in 1888 effected an endowment insurance on his life in the Mutual Life Insurance Company for \$5,000, and, by a subsequent writing, executed what purported to be an assignment to the defendant, Emma Hicks, of the policy. Afterwards he desired to appoint his niece, Helen Louisa Young, his beneficiary, but was told that the policy was already assigned, and that he was not at liberty to change. The policy matured on the 28th December, 1908, and the defendant claimed the amount, \$6,799.30. Neither the policy nor the assignment was delivered to the defendant, but the assignment was lodged with the insurance company.

The plaintiff asked for a declaration that he was entitled to be paid the moneys, and that the assignment to the defendant had been effectually revoked.

The money was paid into court by the company.

BRITTON, J., after stating the facts, said that it must be taken that there was no consideration for the assignment; if it holds as such, it must be as a gift *inter vivos*.

(Reference to *Weaver v. Weaver*, 182 Ill. 287; *In re Trough's Estate*, 75 Pa. St. 114.)

The policy being the thing given, there ought, in addition to the assignment evidencing the gift, to be an actual handing over of the thing itself or something equivalent to it, or some reason to the contrary, to comply with the rule of law, "To perfect a gift, the delivery must be, so far as the thing is capable of it, an actual delivery."

My conclusions are:—

(1) That there was no intention on the part of the plaintiff to give absolutely and irrevocably to the defendant the policy in question. It was his intention to make the policy payable to her at his death, should that occur before maturity of the policy, and subject to any change he might desire to make before such death or maturity.