

consequently by the provisions of sec. 332, sec. 330 applies. This is as follows: "If at the time of the death of a member . . . if any designation shall fail for illegality or otherwise, then he benefits shall be payable to the person or persons mentioned in Class First, sec. No. 324, if living in the . . . order of precedence by grades as therein mentioned, the persons living of each precedent grade taking in equal shares per capita to the exclusion of all persons living of subsequent enumerated grades, except that in the distribution among persons of grade second, the children of deceased children shall take by representation the share the parent would have received if living. . . ."

"Section 324. A benefit may be made payable to any or more persons of any of the following classes only:

"Class First.

"Grade 1st.—Member's wife.

"Grade 2nd.—Member's children and children of deceased children and member's children by legal adoption.

"Grade 3rd.—Member's grandchildren.

"(Enumerating 13 classes.)"

In either of which cases no proof of dependency of the beneficiary designated shall be required; but, in case of adoption, proof of the legal adoption of the child or the parent designated as the beneficiary, satisfactory to the supreme secretary must be furnished before the benefit certificate can be issued.

"Class Second.

(1) To the affianced wife. . . .

"(Enumerating five classes.)"

If (a) the deceased Mrs. Hendershot was the member's child "by legal adoption" within the meaning of Grade 2nd of Class First, in sec. 324; (b) the member did not make any "other or further disposition" of the certificate "as provided in the Laws of the Order," and (c) if the provisions of the Laws of the Order are to prevail, it is, to my mind, clear that the children are entitled to the money.

It is argued by the defendant that Lucy Hendershot was not a child "by legal adoption."

In *Re Davis* (1909), 18 O. L. R. 384, at pp. 386, 387, it is said, "the law of England, strictly speaking, knows nothing of adoption," "parents cannot enter into an agreement legally binding up to deprive themselves of the custody and control of their children; and if they elect to do