

an isolated one, but one of many of a similar kind existing and maturing during the life of the policy in question in this action, and existing to-day and to mature in the future. No complaint was made by the assured. He continued to pay his premiums in full and to lead the company to believe that he was acquiescing in the validity of the policy in all respects. He knew that bonus additions were being fixed from time to time by the directors and applied to his policy, among others, and that these would go to swell the amount to be ultimately paid thereunder. Part of the revenue out of which these bonus additions were fixed and allotted was the result of interest on loans on unpaid portions of premiums made up in the same way as in connection with this policy, and part of that interest, no doubt, was represented in the bonus additions applied to this policy.

In these circumstances, and with the knowledge and acquiescence on the part of the assured, it would not be just or equitable to allow the claim of the plaintiff: *Clarkson v. Henderson* (1880), 14 Ch.D. 348; *Quinlan v. Gordon* (1861), 20 Gr. Appendix i.

Action dismissed, with costs, if asked.

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LATCHFORD, J., IN CHAMBERS.

DECEMBER 31ST, 1915.

RE MERCHANTS BANK OF CANADA v. NEELY.

*Division Courts — Jurisdiction — Claim against Garnishees — Amount Involved — Issue as to Validity of Assignment of Moneys Attached — Division Courts Act, R.S.O. 1914 ch. 63, sec. 146 — “Debt Owing or Accruing.”*

Motion by Thomas Alfred Neely, a claimant of moneys attached in the hands of the executors of the father of John Edgar Neely, the defendant, for an order prohibiting the Judge presiding in the Third Division Court in the County of Grey from proceeding to try an issue as to the validity of the assignment made to the applicant by the defendant, on the ground that the matters involved in the issue were beyond the jurisdiction of a Division Court.

H. E. Rose, K.C., for the applicant.

J. R. Barlow, for the plaintiffs.

E. F. Raney, for the garnishees.