

certificate was issued here, where he and she lived. She was the only one then known to the society or to members as Jane Bruce the wife, and but for the will would in all probability have been paid the money.

The evidence so far is somewhat more precise in favour of the fact of the marriage alleged by the Scottish claimants, but there may be other questions, and the parties cannot be expected to produce all their evidence at this stage. The issue does not start with the assumption that either was validly married.

The Master, I think, properly considered that the claimants in Scotland should be plaintiffs, as attacking the recognized status of the Ontario claimant, even assuming that the certificate was not in her possession as distinct from that of the deceased.

But then, they being the attacking parties and plaintiffs, why should not the ordinary rule as to security for costs from non-residents be applied? The Master thought that the difficulty had been caused by the assured himself, and it was probable that costs would not be ordered to be paid. But, if the Ontario claimant be proved to be the lawful wife, her husband could not make any change of the beneficiaries against her in favour of the Scottish claimants, and she would be entitled to the whole fund, and it should not be reduced by having to pay her own costs, much less the costs of the other side. The trial Court may well consider that the principle cannot be invoked on which the Courts act when a testator confers a benefit and at the same time creates doubts as to it which give rise to litigation—there the hand which gives has the right to take away. If the Ontario claimant had to continue her action against the society, she would have had some one within the jurisdiction responsible for costs. If the Scottish claimants had to bring action against the society or against the Ontario claimant, they would have had to give security. They are in no worse position now, and should give security. See *Knickerbocker Trust Co. v. Webster*, 17 P. R. 189, and *Book v. Book*, 1 O. L. R. 86.

Costs of the appeal by the Scottish claimants to be costs in the cause to the Ontario claimant.

Costs of the appeal by the Ontario claimant to be costs in the cause.