

Dubuc, C.J.]

IN RE ANDERSON.

[Feb. 10.]

*Life insurance—Benevolent Society—Appropriation by will of benefit to persons other than beneficiary named in policy.*

This was a case stated for the opinion of the Court as to whether a provision in the will of the deceased, whereby he revoked the benefit of a certain life insurance policy held by him in "The Ancient Order of United Workmen," in which his wife was named as the beneficiary, and directed that the money should fall into and form part of his general estate, was effective to that end or whether the widow was not entitled to the money on his death notwithstanding such revocation in his will, also as to whether the widow, if found so entitled, was bound to elect as between such benefit and other provisions of the will in her favour. The order had been incorporated in 1877 under the provisions of The Charitable Associations Act, now c. 18 of the R.S.M. 1902, and, according to its constitution and rules by which all its members were bound, no member had any right in or control over the money for which he was insured, except to name the beneficiary to whom it should be paid on his death which right was limited to certain relatives, and a member had not the right to name a creditor as a beneficiary or to appropriate the money so that it could be applied in payment of his debts.

*Held*, 1. There had been a contract entered into between the deceased and the Order by which it was agreed that the money should be paid to his wife, and that he could not afterwards abrogate or alter such contract or change the destination of the money except in accordance with the constitution and general laws of the Order, and so the widow was entitled to the money. *Leadley v. McGregor*, 11 M.R. 9; *Johnston v. C.M.B.A.*, 24 A.R. 88, and *Babe v. The Board of Trade of Toronto*, 30 O.R. 69, followed.

*National Trust Co. v. Hughes*, 14 M.R. 41, distinguished on the ground that the insurance in that case was governed by The Life Insurance Act, R.S.M. 1902, c. 83, which applies only to insurance in ordinary life insurance companies.

2. The widow was not put to her election, but should have the insurance money as well as the benefits given her by the will of the deceased. *Griffith v. Howes*, 5 O.L.R. 439, and *In re Warren's Trust*, 20 Cr. D. 208, followed.

*Minty*, for widow. *Hull*, for executors. *Wilson*, for legatees.