next of kin of Hector, upon originating notice, for an order determining the question, who is to receive the $1,000.

B. N. Davis, for the applicants.
G. Lynch-Staunton, K.C., for the association.

Middleton, J., said that he was asked to infer that Hector Pinsonneault was dead and to direct payment over of the insurance money as if he were dead.

Reference was made to Halsbury's Laws of England, vol. 13, pp. 500, 502; Watson v. England (1844), 14 Sim. 28; Bowden v. Henderson (1854), 2 Sm. & G. 360; In re Phené's Trusts (1870), L.R. 5 Ch. 139; Willyams v. Scottish Widows Fund Life Assurance Society (1888), 52 J.P. 471; Wills v. Palmer (1904), 53 W.R. 169.

Two years after Hector's disappearance, his father executed the endorsement upon the policy, changing Hector's share from $500 to $1,000. This was in effect a declaration of trust in his favour, he being designated by name; and he must, until the contrary is shewn, be taken to have been living at the date of the endorsement—the onus of proving death before that date being upon the representatives of the settlor: In re Corbishley's Trusts (1880), 14 Ch. D. 846.

Zuluma Pinsonneault stated her belief that the father had no word of his son at any time; but he might have had knowledge unknown to her; and death ought not to be presumed until the lapse of seven years from the date of the endorsement.

An order may issue permitting the money to be paid into Court and discharging the association from all liability; and, if no further information can be obtained, the money will be paid out on the expiration of seven years from the date of the endorsement, and distributed upon the theory that the son did not survive his father; the onus is upon the representatives of a beneficiary to prove that he survived the insured: Re Phillips and Canadian Order of Chosen Friends (1906), 12 O.L.R. 48.

If the insurance money is now paid into Court, the costs of both parties will be paid out of the fund, and the fund will remain in Court until after the 14th December, 1916.