

But if the assured die on the second day of the month without payment, are his representatives entitled to offer payment twenty-nine days after the life had dropped? That is the proposition the defendant has to assert.

"I do not profess to know anything as to the usage or custom of life assurance companies or how they are pleased to understand such provisions. I have nothing to guide me on this question of construction beyond what the appeal book presents, and the arguments of counsel thereon, and the external evidence. On the very fullest consideration which I can bestow on the case, it appears to me that after the life has dropped, no tender or offer to pay can avail."

Osler, J. A., says:

"The other question seems to me one of some difficulty. The language of the policy is obscure, and though framed in more general terms in some respects than the policies in question in the English cases of *Simpson vs Accidental Death Insurance Co.*, 2 C. B. N. S., 257; and *Pritchard vs Merchants, etc.*, Life Assurance Society, 3 C. B. N. S., 622, the present inclination of my opinion is that it must be construed as meaning that payment of the premium must be made in the lifetime of the insured. The clause as to reinstatement which is found in direct connection with the 'grace' clause implies the continuance of the life at the end of the month, and to hold that the grace continues after the death to the end of the month involves the absurdity that though the policy has become a claim by death within the month, so that the premium ought to be then a mere matter of account, it will be avoided by the express terms of the provision, and the claim defeated, by the omission of the insured's representatives, who may know nothing about the matter, to pay the premium in cash before the expiration of the month."

Burton, J. A., on the other hand, says:

"I am, I confess, a little surprised at any question arising at the present day as to the liability of a life assurance company where the assured dies within the days of grace, but before the payment of the premium, provided that it is paid within the ex-