

peared clearly that the agreement was not made with the wife, but with the husband, "the member herein insured;" (6) a policy for \$1,000, dated the 21st September, 1883, in terms similar to (5).

By a will made on the 17th October, 1914, the testator gave and devised all his real and personal estate to his executor in trust for the use of the testator's wife during her natural life; "my said executor to collect all the life insurance, rents, interest, and accounts due me at my death and with this money first pay off the incumbrances, if any . . ." The testator then made specific bequests and devises; and then gave all the residue of his estate to his daughter.

After the death of his wife, he made a codicil in which he stated that she was dead, and "the portion of my said will referring to her will no longer be operative."

The questions for determination were whether the will and codicil amounted to a declaration within the meaning of the Ontario Insurance Act, R.S.O. 1914 ch. 183; and, if not, to whom the moneys due under the policies should be paid.

The motion was heard in the Weekly Court at Ottawa.

M. M. Brown, for the applicants.

J. A. Hutcheson, K.C., for the son and grandson of the testator.

FALCONBRIDGE, C.J.K.B., after setting out the facts in a considered judgment, said, as to policies (1) and (4), that both contracts were with the wife, and the insurance moneys belonged to her absolutely; the contracts did not come under secs. 171 and 178 of the Act, but under sec. 169; and the will and codicil did not affect these policies.

Policies (2), (3), (5), and (6) came under secs. 171 and 178, and the same considerations governed them all. Section 178 (2) created, in respect of these, a trust in favour of the wife unless and until a declaration should be made under sec. 171 (3), and in no case could the policy be diverted from the class of preferred beneficiaries except in cases such as are provided for in sec. 178 (7).

The words of the will, "all the life insurance" were sufficient to constitute an effective declaration under the Act: sec. 171 (5); *Re Baeder and Canadian Order of Chosen Friends* (1916), 9 O.W.N. 462.

The effect of the declaration was to take away from the wife the corpus of the proceeds of the policies and to give her only