

real estate, and proceeded: "I give the residue of my property, including life insurance, to my wife and to my two youngest children:—

*Held*, that the will sufficiently identified the policy within the meaning of s. 160 of the Insurance Act, R.S.O. 1897, c. 203, and operated as a valid declaration under the statute in favour of wife and children to the exclusion of creditors.

*Re Cheesborough*, 30 O.R. 639, applied.

*Held*, also, that the word "including" in the will did not mean that the life insurance was a part of the residuary estate, but that it was given in addition to the residuary estate.

*A. R. Clute*, for executor. *Marsh*, K.C., for widow. *Harcourt*, for infants. *A. C. McMaster*, for creditors.

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Divisional Court.] VALIQUETTE v. FRASER. [Dec. 30, 1904.

*Negligence—Building contract—Fall of wall—Architect.*

The defendants being desirous of building a mill obtained from the owner of a mill of the desired character in the same vicinity the plans used by him which had been prepared by architects of high standing, and then proceeded to build in general accordance with these plans employing an experienced builder. There was contradictory expert evidence as to the mode of construction and as to the doing of mason work in winter. After the walls and roof had been completed machinery was being brought into the building though large door openings left unclosed for that purpose. The wind during a violent storm, rushing in through the openings forced off the roof and the walls fell, the plaintiff's husband, who was working at the building being killed:—

*Held*, that leaving the openings was not under the circumstances a negligent act, and that there was no liability in that respect.

*Held*, also, that there was no liability because of the mode of construction, even if defective, there being no patent defect or anything in the nature of a trap, an owner (in the absence of something of that kind) being entitled, in carrying on building operations, to rely on the plans of qualified architects and the skill of competent builders, and not being bound at his peril to acquire the technical knowledge necessary to enable him to decide as to the plans and the nature of the work. Judgment of TEETZEL, J., affirmed.

*Lorn McDougall*, for appellant. *Aylesworth*, K.C., for respondents.