

Dame A. T. sued J. F. and M. W. F. personally as well as in their quality of testamentary executors and trustees of the will of the late J. F. claiming \$4,000 damages for the death of her husband who was killed by a window falling on him from the third story of a building, which formed part of the general estate of the late J. F., but which had been specifically bequeathed to one C. F. and his children for whom the said J. F. and M. W. F. were also trustees. The judgment of the courts below held the appellants liable personally as well as in their capacity of executors for the general estate.

On appeal to the Supreme Court :

Held, affirming the judgment below, that the appellants were responsible for the damages resulting from their negligence in not keeping the building in repair, as well personally as in their quality of trustees (*d'héritiers fiduciaires*) for the benefit of C. F.'s children, (Art. 1055, C. C.), but were not liable as executors of the general estate.

Appeal dismissed without costs.

Taylor for appellants.

Saint-Pierre, Q.C., for respondent.

15 January, 1895.

Quebec.]

CALDWELL v. ACCIDENT INSURANCE Co.

Partnership—Registered declaration—Art. 1835, C. C.—Cons. Stats. L. C., ch. 1, ch. 65—Oral Evidence—Life Policy.

In an action upon a life policy to recover amount payable to the surviving partners upon the death of one of the partners, a notarial dissolution of the partnership duly registered, as well as a declaration of a new partnership, of which the deceased was not a member, and duly registered as provided by art. 1834, C. C.; was set up as a defence to the action, and evidence was tendered to show that the deceased had continued to be a member up to the time of his death.

Held, affirming the judgment of the court below, that oral evidence to contradict such declaration was inadmissible, and that the action was properly dismissed.

Appeal dismissed with costs.

Abbott, Q.C., and *Geoffrion, Q.C.*, for appellant.

Cross, Q.C., for respondents.