

in issue directed as to moneys arising from life policy, but refusing to order that they give security for costs, though resident in Scotland.

W. J. Elliott, for plaintiff.

F. S. Mearns, for claimants.

MAGEE, J.:—The benefit certificate was payable to Jane Bruce, wife of the assured; that was in 1884. He was then and had been for several years living in Toronto with one Jane, known as Jane Bruce, his wife, and he continued to live with her till his death at Toronto in May, 1903. By his will he calls her his housekeeper, and bequeaths the certificate to another Jane Bruce, living in Scotland, whom he calls his wife, and Elizabeth Jane Bruce, his daughter, living in the same place. The latter Jane Bruce was originally Jane Munroe. She alleges that she was married to him on 12th April, 1861, in Scotland, and that he deserted her about 1869, after 4 children were born to them. The Jane in Ontario, who was formerly Jane Robertson, alleges that she was married to Robert Bruce in Scotland about 1869, and they came at once to America and lived together ever since, and that two children were born to them.

Each claims to have been his lawful wife, and disputes the title of the other.

After his death the claimant in Ontario produces the benefit certificate and says it was given by him to her as being the beneficiary named in it.

The claimant in Scotland produces the usual certified copies of the registry of her marriage. The claimant in Ontario has not as yet done so, but can point to the long residence together and acknowledged marital relationship.

The money is claimed from the benefit society on both sides, and Jane Bruce of Toronto follows up her claim by an action against the society to recover it. In that action the interpleader is ordered.

The Scottish claimants have the declaration of benefit in the will in their favour. But if the Ontario claimant was really the wife of the member, while he might have changed the benefit in favour of his children, he could not change it over to strangers, and the Ontario wife should not be prejudiced by a declaration by him to which she is not party. The