

THE
ONTARIO WEEKLY REPORTER

(TO AND INCLUDING JUNE 16TH, 1906.)

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TORONTO, JUNE 21, 1906.

No. 2

FALCONBRIDGE, C.J.

JUNE 11TH, 1906.

WEEKLY COURT.

RE JANSEN.

*Life Insurance — Change in Beneficiary — “Instrument
in Writing” — Incomplete Will — Operation of — Insurance
Act.*

Motion by Mary S. Jansen, widow of W. Jansen, deceased, for payment out of Court of the amount paid in by a benefit society, being the fruits of a policy or certificate upon the life of the deceased, of which she was the beneficiary. The motion was opposed by the 5 children of deceased, who claimed under an alleged will varying the designation of beneficiary and apportioning the amount among wife and children.

W. B. Laidlaw, for the widow.

A. G. F. Lawrence, for the 5 children of deceased.

FALCONBRIDGE, C.J.:—The Grand Lodge of the Ancient Order of United Workmen issued a beneficiary certificate to the deceased in 1879, for \$2,000, to be paid at his death to his wife. Jansen died on 27th June, 1905, leaving him surviving his widow and 5 children. On 16th June he had executed a document with the intention of making a last will and testament, but the persons who subscribed their names as witnesses were not both present at the same time, nor did they subscribe their names as witnesses in the presence of each other; so that the document cannot be proved as a will.

The question for determination is whether this document, which was intended to operate as a will, and which is wholly