

do not think I should attempt to refine away that decision by making distinctions without any difference.

I think it better to adopt this course, and leave it to the plaintiff to take the case to a higher Court, rather than to adopt the alternative course of investigating the matter with such thoroughness as to enable me to say that I deem the decision referred to to be wrong. See sec. 81 of the Judicature Act. This relieves me from considering the other matters argued by defendant's counsel.

HON. MR. JUSTICE RIDDELL.

MAY 4TH, 1912.

### FIDELITY TRUST CO. v. BUCHNER.

3 O. W. N. 1208; O. L. R.

*Insurance—Life—Benefit Society—Adopted Daughter—Death of —  
Claim by her Children—Rules of Society—Adoption Discussed.*

Interpleader issue to determine the ownership of \$1,500 insurance money on the life of T. R. Rhoder paid into Court by Royal Arcanum and claimed by plaintiff as administrator of Rhoder's estate or as next friend of the infant children of Lucy Hendershot and by defendant as assignee for value by endorsement on policy. Lucy Hendershot, an adopted daughter, was the original beneficiary named in the certificate and on her death in 1909 it had been assigned to defendant.

RIDDELL, J., held, that while under the rules of the Royal Arcanum the infant children of the beneficiary named in the policy would take the benefit thereunder, yet under the Ontario Insurance Act, R. S. O. c. 203, s. 151 (3) which was of paramount authority, the defendant was entitled.

*Gillies v. Young*, 1 O. L. R. 368, followed.

*Re Davis*, 18 O. L. R. 384, and in *Re Hutchinson*, 21 O. W. R. 669, as to adoption discussed and cases reviewed.

Plaintiffs given 10 days to take reference as to amount due defendant in respect of advances made deceased. If reference taken costs reserved, if not, all issues found in favour of defendant with costs.

An interpleader issue to determine the ownership of \$1,500 insurance moneys payable on the life of the late T. R. Rhoder, paid into Court by the Royal Arcanum. Tried at London without a jury.

W. G. R. Bartram, for the plaintiff.

J. M. McEvoy, for the defendant.

T. R. Rhoder, a manufacturer of London, took out on 29th August, 1901, a certificate in the Royal Arcanum, whereby that organization agreed "to pay . . . to Lucy