

sent Declaration, and have affixed thereto the seal of their arms.

Done in duplicate at London, the ninth day of August, 1880.

GRANVILLE,
LOBANOFF.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, Sept. 17, 1880.

Sir A. A. DORION, C.J., MONK, RAMSAY, CROSS, J.J.
VEZINA (plff. below), Appellant, & THE NEW YORK LIFE INSURANCE Co. (defts. below), Respondents.

Life Insurance—Insurable Interest.

A policy of life insurance was made out in the name of G., who never paid a premium. The agent of the company retained the policy in his own hands, and subsequently induced L., who had no interest whatever in G.'s life, to take an assignment of the policy by way of speculation, and L. then paid the premiums. Held, that no one can effect an insurance upon the life of another without having an interest therein, and that as the above transaction was really an insurance by L. for his own benefit of G.'s life, an action upon the policy could not be maintained.

The appeal was from a judgment of the Superior Court, Montreal, April 30, 1878, Dorion, J., dismissing an action to recover the amount of a life insurance. The judgment was as follows:—

“ La cour, etc. . . .

“ Considérant que la police d'assurance, sur laquelle est basée la présente action, a été obtenue par le nommé Gendron, non pas dans son intérêt, mais dans l'intérêt d'une tierce personne, laquelle n'était ni créancière, ni parente à aucun degré, de l'assuré ;

“ Considérant que le dit Gendron n'a jamais eu aucun intérêt dans la dite police, n'ayant jamais même payé la première prime ;

“ Considérant de plus que la dite police a été obtenue sous de fausses représentations, quant à l'âge de l'assuré et au fait qu'il n'avait pas été refusé par d'autres compagnies d'assurance ;

“ Considérant que le nommé Langlois, à qui la dite police a été transportée par Gendron, n'avait et n'a pas prouvé qu'il eut aucun intérêt

sur la vie du dit Gendron ;

“ Déboute l'action du demandeur avec dépens,” etc.

The company's defence was to the effect that the contract was made in the city of New York, and that according to the laws of the State of New York, no assignee of a life policy can demand or recover payment of the amount assured without making proof of his insurable interest in the life of the assured ; that neither Vezina nor Langlois had any insurable interest in the life of Gendron either at the date of the policy or during its duration. It was further pleaded that Gendron never had any legal interest in the policy, and that the insurance was in reality effected by Langlois, who paid the premium.

It appeared from the evidence that Michaud, the agent of the insurance company in the city of Quebec, in November, 1873, granted a policy on the life of one Gendron, for \$2,000. Gendron never paid any premium, and never received the policy. But in the following month (December, 1873), Michaud went to one Langlois, a merchant of Quebec, and induced him to take up the policy and pay the premiums thereon, as a speculation. Langlois was not a creditor of Gendron, and had no connection whatever with him. Langlois took an assignment of the policy and paid the premiums until 16th Sept. 1875, when Gendron died. Subsequently, in November, 1875, Langlois assigned the policy to Vezina, the plaintiff, appellant.

Cross, J., (*diss.*) appeared to take a somewhat different view of the facts from the majority of the Court. The policy was made out in Gendron's name. There was no question of Langlois at all when the application was made. The agent kept the policy in his hands, and sometime afterwards induced Langlois to take an assignment of it. Any person may insure his life, and whether he is doing it as a speculation or not, the insurance company have nothing to say. The insured is the master of the contract, and may transfer it to any one he pleases. Therefore, it seemed to his Honor that Langlois became legally vested with this policy when he got a transfer from Gendron. It was possible there might be a case so extremely gross, where there was fraud from the inception, that the policy would be voided. But here there was no fraud at the beginning of the transaction, and if there was anything wrong,