

to interfere or does in any way interfere with rights which may have been acquired by third persons against the policy-holder. The fund for division represents as nearly as possible the moneys secured by the policy, and in the division of that fund the rights as between the policy-holders and their assignees or the beneficiaries to whom their policies have been made payable, are not affected by the winding-up. It could hardly be argued that the effect of the Winding-up Act was to defeat the rights of an assignee. The position of preferred beneficiaries under the Ontario Insurance Act (R. S. O. 1897 ch. 203, sec. 159) is the same for present purposes. These beneficiaries have an interest in the policy, even during the lifetime of the assured: *Doull v. Doelle*, 6 O. W. R. 39. The moneys payable in respect of the policy are trust funds, as to which they are beneficiaries, and their nomination as beneficiaries is in effect an assignment of the policy to them, subject to the right of the assured to change the beneficiaries in the cases permitted by the Act, and to their surviving the assured. The liquidator is, therefore, bound to take notice of assignments of the policies in respect of which he is making a distribution of the fund, and also of the declarations in favour of preferred beneficiaries. The principle of the Ontario Insurance Act is to permit the assured from time to time to make whatever changes he may consider necessary or advisable in the members of the preferred class of beneficiaries who are to take. And, in any event, the right of any such beneficiary to participate is not absolute until he shall have survived the assured. Therefore, in this case the mere accident that moneys become payable in respect of the policy by reason of the winding-up of the association in the lifetime of the assured, while it does not impair, does not accelerate, the rights of the beneficiaries.

The moneys should be paid into Court to the credit of this matter, and, while there, will be subject to such control of the assured as is exerciseable by him over a trust fund created by sec. 159 of the Ontario Insurance Act, and, subject as above, the moneys may be paid out on the death of W. E. Wellington to the named beneficiaries then surviving, in equal shares.

As this matter is brought up wholly as a test case in the winding-up of the association, and not as a contest between W. E. Wellington and his children, the costs of all parties will be paid by the liquidator out of the funds in his hands.