

for the benefit of creditors made by a debtor pursuant to the Act respecting assignments and preferences by insolvent persons of property insured under a policy of insurance effected in Ontario falls within the fourth statutory condition so as to avoid the policy.

This condition reads as follows: "If the property insured is assigned without a written permission endorsed hereon by an agent of the company duly authorized for such purpose, the policy shall thereby become void; but this condition does not apply to any change of title by succession or by the operation of the law or by reason of death."

Held, 1. The broad principle deducible from the decisions is that unless the property is assigned so as to absolutely divest the assignor of all right, title and interest thereto and therein the condition does not take effect and that irrespective of the form of the instrument of assignment. Thus a mortgage created or a transfer to a bare trustee for the transferor are outside of the conditions and the other cases can readily be supposed to which unquestionably the condition would have no application.

2. In the present case though the assignors part with the title to the extent of passing the legal interest to the assignee they do not part with all their right and interest in it and so notwithstanding the form of the instrument the assignors retain an insurable interest in the property and the statutory condition does not come into operation. Appeal dismissed.

Hellmuth, K.C., and *G. L. Smith*, for defendants. *Rowell*, K.C., and *L. G. McCarthy*, K.C., for plaintiffs.

HIGH COURT OF JUSTICE.

Full Court.]

[March 30.]

JONES v. TORONTO AND YORK RADIAL RY. CO.

Street railway—Injury to person crossing track—Negligence—Failure to give warning—Contributory negligence—Rights of foot passengers.

Appeal by the plaintiff from the judgment of Riddell, J., dismissing the action with costs. The facts of the case were that the plaintiff, who was slightly deaf, got out of his waggon, and proceeded to cross Yonge Street on a skew (as he called it) of about 45 or 50, to the street car tracks laid on the west