

question, to the exclusion of any claim thereupon of her late husband's creditors.

W. E. Middleton, for creditors, contra.

ANGLIN, J.—The contention of the widow cannot prevail. The very instrument conferring title upon the widow makes that title subject to the payment of the debts of the testator. The insurance moneys are in the gift itself blended with and treated as forming part of the general estate out of which debts are expressly directed to be paid. The testator has unmistakably expressed his intention that these insurance moneys should remain part of his general estate available to meet the claims of his creditors.

Costs of all parties out of the fund.

ANGLIN, J.

OCTOBER 25TH, 1904.

WEEKLY COURT.

PLENDERLEITH v. PARSONS.

*Costs—Mortgage—Action for Redemption—Opposition to—Former Foreclosure Proceedings.*

Motion by plaintiff for judgment on the pleadings in an action for redemption of mortgaged lands.

T. Hislop, for plaintiff.

B. Morton Jones, for defendants, conceded that plaintiff was entitled to judgment as prayed, but contended that in its discretion the Court should withhold the costs of the action; that plaintiff might, at much smaller expense, have obtained full redress by a petition to open up former foreclosure proceedings, and should not therefore be allowed the costs of a new action for redemption.

ANGLIN, J.—The major part of the costs of the action have been occasioned by defendants' mistaken course in opposing plaintiff's claim which they now yield. Had defendants promptly acceded to plaintiff's demand, the costs would have been, at most, trifling.

The usual judgment for redemption will therefore be entered. The costs of the action down to and inclusive of judgment will be deducted from the mortgage claim of de-