

Walkem, J.]

TURNER v. JEWEL.

[May 4.

Life insurance—Benevolent society—Change of direction as to payment—Revocation—Rev. Stat. B.C., 1897, c. 13 & 104.

Interpleader issue. E. F. being a member of the Ancient Order of United Workmen, received a certificate from the order dated 23rd July, 1886, which entitled his infant daughter to payment of \$2,000 at his death. He placed his daughter in 1887 under the care of the plaintiffs, J. T. and his wife, and handed the certificate to them, together with his will, on the understanding that they should maintain and educate her. E. F. died in 1897, and by his will the plaintiffs were appointed trustees and executors of his estate, and also guardians of his infant daughter with directions to collect and invest for her benefit the \$2,000. E. F. shortly before his death had a new certificate issued to him upon his formally agreeing in writing that the first one should be cancelled or revoked. It was revoked, and in the fresh certificate the \$2,000 originally directed to be paid to his daughter is cut down to \$1,500, and the balance of \$500 made payable to E. F.'s sister, since deceased, and whose personal representatives now claim it.

Associations like the present one are organized under the Benevolent Societies Act (R. S. 1897, c. 13), and their policies are subject to the provisions of the Families' Insurance Act (R. S. 1897, c. 104), by s. 8, of which a certificate may be raised by an instrument in writing attached to or indorsed on, or identifying the policy by its number or otherwise, so as to restrict or extend, transfer or limit the benefits of the policy to the wife alone or to children, or one or more of them, as beneficiaries, or a beneficiary, or sole beneficiary, although the policy is expressed or declared to be for the benefit of the wife and children alone; he may also by his will make or alter the apportionment of the insurance money; and an apportionment made by his will shall prevail over any other made before the date of the will. No such instrument in writing was produced in this case.

Held, that the revocation of the certificate was illegal, and the second or substituted certificate was a nullity; and the provisions of the will in respect of the first and valid certificate apply to it. The plaintiffs, as trustees, appointed by the testator to receive and invest the money in question, are entitled to it.

R. T. Elliott, for plaintiffs. *Thornton Fell*, for defendant.

Irving, J.]

IN RE MCGILLIS.

[April 29.

Will—Probate—Affidavit of execution.

This was an application for probate of a will, and the affidavit used was drafted from Form 14 in Howell's Probate Practice.

Held, that the affidavit was insufficient, inasmuch as it did not state that the will was subscribed by the witnesses in the presence of the testator, but leave was given to file a sufficient affidavit, which would be considered without requiring a fresh motion.

Marshall, for the application.