I find that the deceased made application to the Home Circles for the insurance of $3,000 on the tenth of August, 1903, and by said application a certificate was issued made payable to Alexander Smith, the father of the said deceased, and upon the death of his father in or about the year 1905, the said William Edson Smith had a new certificate issued by said order, which directed that any sums becoming payable under such certificate should be paid to Wilbur Milton Smith, nephew of the deceased.

On page 32, s. 2 of the laws of the Home Circles in force at the time this certificate was issued, the benefit may be made payable to a class of persons, a list of which is given; among which class "nephews" are included. Under another section a benefit certificate cannot be made payable to a creditor, nor be held in whole or in part by assigns, to secure any debt, which may be owing by a member. Since issue of the above certificate the constitution and laws of the Home Circles have been amended, but the amendments do not in any way vary the said two sections.

Sec. 12 of the Benevolent and Provident Society Act, R.S.O. c. 211, in my judgment precludes the certificate issued by the Home Circles in this case from being made part of the estate of the said deceased at the time of his death. This section provides that on the death of a member and any sum of money becomes payable, the same shall be paid by the treasurer or other officer of the Society to the person or persons entitled thereto under the rules of the society or shall be applied by the society as may be provided by such rules.

I find that under the rules of the society the amount of the certificate in question herein became payable at the death of the deceased, and was, in my judgment, no part of the estate of the said William Edson Smith. I therefore do not allow any deduction for succession duty, the estate of the deceased in my judgment being under the amount of $10,000.

Mr. Hopkins, for the Treasury Department, cited *Attorney-General* v. *Dobree* (1900) 1 Q.B.D. 442, but this case in my judgment does not destroy the effect of the Benevolent and Provident Societies Act, and does not apply to insurance taken under the provision of that Act in Ontario.