

HIGH COURT DIVISION.

MEREDITH, C.J.C.P., IN CHAMBERS.

DECEMBER 23RD, 1918.

RE KRAFT.

Insurance (Life)—Designation of Father of Insured as Beneficiary—Assignment of Right by Beneficiary to Wife of Insured—Second Designation by Insured of Original Beneficiary—Effect of.

Motion by the Standard Life Assurance Company for leave to pay into Court certain insurance moneys arising from a policy upon the life of the deceased; and motion by Dilman Kraft, the father of the deceased, for payment of the insurance moneys to him.

G. L. Smith, for the Standard Life Assurance Company.

M. A. Secord, K.C., for Dilman Kraft.

J. M. Ferguson, for the widow of the deceased assured, asked that the money should be paid to her.

E. C. Cattnach, for the infant son of the deceased, asked for payment to him.

MEREDITH, C.J.C.P., in a written judgment, said that the single question involved was, whether the second designation, made by the insured, of his father, was valid.

After the first designation of the father, the father "assigned" his right under it to the son's wife, and afterwards he "designated" the son's son: but that "designation" was admittedly ineffectual, even if treated as an equitable declaration of trust, because of the prior "assignment" to the son's wife. The insured admittedly and obviously could change the beneficiary, but a beneficiary could not.

For reasons which, apparently, son and father considered imperative, they desired, and took steps, to deprive the wife and her son of all interest in the insurance: the means taken were the second designation by the insured of his father; which, if valid, had the desired effect.

But, though it was admitted and was obvious that the insured had power to deprive his son and wife, because he had power to deprive his father of his former right, and they took only under the father and had no higher right than he, it was contended that that object was not effected by the second designation of the father—that the insured had no power to make the later designation directly of him; in effect, that that could be effected only by first