

The motion was heard in the Weekly Court at Toronto.

A. C. Heighington, for the executor and certain adult beneficiaries.

F. W. Harcourt, K.C., for the infant beneficiaries.

W. H. Wallbridge, for Ruth E. Rutherford.

H. S. White, for the insurance company.

KELLY, J., in a written judgment, after setting out the facts, said that, in his opinion, under sec. 171 (5) of the Ontario Insurance Act, as it now stands in R.S.O. 1914 ch. 183, the insurance was sufficiently identified by the will. The testator made it clear that he intended to deal with and was dealing with his insurance when he gave all his real and personal estate of which he should die possessed, and immediately followed this by a reference to \$2,000 insurance (that being the total of his insurance, and part of it being manifestly the \$1,000 of city insurance), which he then and there proceeded to apportion. A declaration so made, in the circumstances, sufficiently identified the insurance with the subsisting insurance, and sufficiently supported a change of beneficiary. See *Re Bader and Canadian Order of Chosen Friends* (1916), 36 O.L.R. 30. This view was supported by the general tenor of the will.

But the stepmother does not come within the preferred class of beneficiaries referred to in sec. 178 of the Act. She is not a relative of the insured by blood, and is not his "mother" in the sense in which that word is used in the Act. Referring to Ruth E. Rutherford as "mother" did not place her in the preferred class. And the Court cannot extend the language of the Act for the benefit of persons not coming within its precise terms: *McHugh v. Grand Trunk R.W. Co.* (1901), 2 O.L.R. 600, 606.

It was in evidence that Ruth E. Rutherford was in receipt of the benefits from the city insurance; and so the condition of the will on which the disposition made of the \$2,000 insurance moneys to Ruth E. Rutherford and the other seven beneficiaries therein named should become void, did not arise.

Order declaring accordingly. Costs of all parties except Ruth E. Rutherford out of the moneys arising from policy No. 977403a; those of the executors between solicitor and client; no costs to Ruth E. Rutherford.