

ÆTNA NAT. BANK AND OTHERS *v.* UNITED STATES LIFE INS. CO. AND OTHERS.

*Circuit Court, S. D. New York.* August 3, 1885.

FRAUD ON CREDITORS—PREMIUMS PAID TO LIFE INSURANCE COMPANY—STATUTE OF NEW YORK.

A bill in equity may be maintained by creditors of a deceased debtor to reach premiums paid to a life insurance company in fraud of creditors of the insured out of funds of the insured, and in furtherance of a combination and conspiracy between the insured and his wife to hinder, delay, and defraud the creditors of the deceased, notwithstanding the said policies were made payable to the wife of the deceased, and notwithstanding the provisions of the statutes of New York exempting such policies from the claims of creditors of the husband, where the premiums do not exceed \$500. But the creditors have no claim upon the insurance in such case beyond the amount of the premiums and interest thereon.

In Equity.

*William B. Hornblower*, for plaintiffs.

*John W. Weed*, for defendants.

WHEELER, J. The policies in this case upon the life of the husband were originally made for the benefit of, and payable to, the wife. According to the bill the premiums were paid from the property of the husband in fraud of the rights of his creditors, who bring this bill. If this is all true, the amount due on the policy does not represent the property of the husband, nor any part of his estate, beyond the amount of the premiums. The insurance was upon her interest in his life, not the creditors' interest in his life, and the amount due represents her interest, and, beyond the amount of the premiums, is hers. An amount equal to the amount of the premiums may represent so much of his estate, and in equity belong to his creditors. They may ultimately, by these proceedings, reach that

amount, but there appears to be no fair ground on which they can reach more.

Motion granted for an injunction to restrain payment of so much of policies as equals in amount the premiums paid thereon, with interest, and stay of proceedings vacated as to residue.

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