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 \*May 4. THE STANDARD LIFE ASSUR- } APPELLANT;  
 ANCE COMPANY (DEFENDANT). }

AND

MARIE TRUDEAU (PLAINTIFF).....RESPONDENT.  
 ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR  
 LOWER CANADA, APPEAL SIDE.

*Appeal—Jurisdiction—Amount in dispute—Questions raised by plea—In-  
 cidental issue.*

Issues raised merely by pleas cannot have the effect of increasing the  
 amount in controversy so as to give the Supreme Court of Canada  
 jurisdiction to hear an appeal. Girouard J. *dubitante*.

**MOTION** that the deposit of \$500 made by the defend-  
 ant be allowed as good and sufficient security for an  
 appeal asserted from a judgment of the Court of  
 Queen's Bench for Lower Canada affirming the judg-  
 ment in favour of the plaintiff by the Superior Court,  
 District of Montreal (1).

\*PRESENT :—Sir Henry Strong C.J. and Taschereau, Sedgewick,  
 King and Girouard JJ.

(1) Q. R. 16 S. C. 539.

The action was to recover one-half the amount of two endowment policies for \$1,000 each, issued by the company on the life of Isidore Poirier, who was murdered, payable to him at the end of twenty years should he then be living, or to his wife, should she survive him, otherwise to his heirs. The plaintiff, Poirier's mother, claimed as heir-at-law of one-half his estate, the wife, who was convicted and executed for the murder, having been deprived of her rights under the policies and in his estate. The company pleaded fraud; asked that the policies should be set aside; and also applied to have the other heirs of Poirier made parties to the suit in the Superior Court. The application to add parties was refused, and the company took an action in the Superior Court against all Poirier's heirs-at-law, including the respondent, to have the policies declared fraudulent and set aside. On the application of the company, the two cases were united for the purpose of trial only.

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The plaintiff recovered the amount of her demand, but the company's action for cancellation was dismissed. Both judgments were carried to the Court of Queen's Bench on appeal, where a further application for the consolidation of the two cases was refused and both appeals were, after hearing, dismissed. In the action to set aside the policies an appeal is pending in the Supreme Court of Canada.

An application to the Registrar of the Supreme Court, sitting as a judge in chambers, for approval of the security in the present case was refused, the registrar being of opinion that the amount involved in the action was under \$2,000, and that the case did not fall within any of the exceptions mentioned in sec. 29 of the Supreme and Exchequer Courts Act. In his decision the registrar followed *Dominion Salvage Co. v. Brown* (1), and other

1900 cases cited in Cassel's Supreme Court Practice (2 ed.),  
 THE p. 40-46.  
 STANDARD *Falconer* for the motion cited *Hunt v. Taplin* (1);  
 LIFE ASSUR- *King v. Dupuis* (2); *Turcotte v. Dansereau* (3).  
 ANCE CO.  
 v.  
 TRUDEAU. *Fitzpatrick Q.C.* contra.

The Chief  
 Justice.

THE CHIEF JUSTICE: (Oral.)—In actions where the demand does not bring the case within the appellate jurisdiction of this court it has frequently been decided, and it is the law and the practice of the court, that issues raised merely by the pleas cannot have the effect of increasing the amount in controversy so as to give the court jurisdiction although the questions raised by the pleas in defence to the action might affect amounts or controversies which, if originally demanded in the declaration or introduced by an incidental demand, would have been sufficient to warrant an appeal.

The motion to quash is granted with costs.

TASCHEREAU, SEDGEWICK and KING JJ. concurred with His Lordship the Chief Justice.

GIROUARD J.: (Oral.)—I have not had time to examine the cases referred to by counsel and would not at present go to the same length as His Lordship the Chief Justice. Considering, however, that in this case all the beneficiaries have not been made parties to the action, I am clearly of opinion that there can be no appeal to this court.

*Appeal quashed with costs.*

Solicitors for the appellant: *Robertson, Fleet & Falconer.*

Solicitors for the respondent: *Demers & Delorimier.*

(1) 24 Can. S. C. R. 36.

(2) 28 Can. S. C. R. 388.

(3) 26 Can. S. C. R. 578.