

LAW OFFICES OF  
**MOOT, SPRAGUE, BROWNELL & MARCY.**  
45 ERIE COUNTY SAVING'S BANK BUILDING.

ADELBERT MOOT.  
HENRY W. SPRAGUE.  
GEORGE F. BROWNELL.  
WILLIAM L. MARCY.

*Buffalo, N.Y.* July 5th, 1905.

My dear Mrs. Tourgee:-

I have your letter of June 22nd, with computation of premiums paid on your husband's policy, and interest thereon, amounting to \$16,672.80; also proofs of death.

September 15, 1903, the heirs of Temple received the Tontine dividend of \$6080.70, which should be charged up against any payments made by Temple, or themselves, down to that time. Upon the other hand, the trust agreement between Judge Tourgee and the Trust Company shows that April 28, 1896, they agreed that this policy was held as "security for the payment of" a note "dated May 24, 1884, payable at three months, for \$2500, . . . . with interest from maturity."

I have not accurately figured out the interest on this note from the date it was due until September 15, 1903, but roughly calculating, it quickly appears that this note, and the interest upon it, -not compound but simple, -would amount to something less than the \$6080.70, and thus there would be left a little something from this Tontine dividend which could be applied upon the payment of premiums and interest. Your computation seems to be well made, and I will, therefore, ask you to compute, or have the same person compute, the whole matter on this basis, and see whether anything is left which you can obtain from the Company on this basis. If so, I do not see what answer there is to your claim for that amount.

As to the policy generally, however, it having been the property of Judge Tourgee, and he having made it security for his debt before he assigned it to you, I do not see how you can get anything out of it except what is left after paying his debt, and interest upon it, and after

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paying the premiums paid, and interest upon them. I regret being forced to this opinion on the law, but I have been unable to reach any other possible conclusion upon the facts and the law.

The heirs of Mr. Temple were not slow about the matter. The very day I received your first letter and enclosures, June 28th, I wrote the Equitable demanding the proceeds of the policy for you, and informing them that I would forward your proofs of death, and in answer thereto I received a letter dated June 30th, stating that Temple's heirs had forwarded full proofs of death and had been paid the proceeds of the policy June 19th. I answered at once that the policy was merely held by Temple's heirs as security, that you were the owner of it, as the Company well knew, that they had no right to be paid over the money without notice to you, and consequently the Company would see that your rights had not been affected by the payment. I have thus fully protected your rights with the Company, and the law protects them with the Temple heirs. Unfortunately, however, as you will at once see, the trouble is that the premiums, interest upon them, and the \$2500 note, have nearly, or quite, eaten up the policy, including the Tontine dividend thereon paid over to the Temple heirs September 15, 1903.

Kindly write me your further suggestions in the matter, and give me your figures on the basis suggested, and also let me know if there is anything else I can do for you in this, or any other, matter, and I will freely and gladly do it for the widow of a brother lawyer whom I always found a most appreciative, kind-hearted, able and loyal friend.

Sincerely yours,

To

Mrs. Albion W. Tourgee,  
#52 Cours du Jardin Public,  
Bordeaux, France.

