

In support of the application it was testified, by the applicant, that the money was payable at the assured's death to him and the two infants; that a new certificate was issued after the mother's death, making the money payable to them; but no such certificate is produced; probably the statement is innocently incorrect; under the certificate produced the money is payable to the mother only. However, she having died before the assured, and he having then died also, without, it is said, but is not testified to, having made any other disposition of the money, it would seem—if what is said, but not testified to, be true—that the three children are entitled to it in equal shares, under the provisions of the statute (the Ontario Insurance Act) 2 Geo. V. ch. 33, sec. 178, sub-sec. 7, as amended by 3 & 4 Geo. V. ch. 35, sec. 12.

Prior to the enactment 3 & 4 Geo. V. ch. 35, sec. 10, legislation had given to such a guardian, as well as "to the executors of the assured," expressly the right to be paid such infants' moneys: 2 Geo. V. ch. 33, sec. 175. It also gave power to this Court to appoint a guardian of infants entitled to such money, to whom it might be paid; requiring, however, that such a guardian should give security to the satisfaction of the Court for the faithful performance of his duty and for the proper application of any money he might receive. Guardians appointed by the Surrogate Court are also required to give security: Infants Act, 1 Geo. V. ch. 35, sec. 20.

By the latest enactment on the subject—3 & 4 Geo. V. ch. 35, sec. 10—the expressed right to pay such moneys to the executors of the assured, or to a guardian appointed by a Surrogate Court, or by this Court, contained in the principal enactment, was repealed, and re-enacted giving the right to be paid, in such a case as this, to a trustee appointed by this Court, on an application of the widow of the assured, or of the infants or of their guardian, only, without, as far as I have seen, expressly requiring that security be given by such a trustee, although previously expressly required in the case of a guardian appointed by this Court. As the whole legislation which has been mentioned was evidently intended to be a rather comprehensive code of provincial insurance law in Ontario, and in view of the repealing and re-enacting of 2 Geo. V. ch. 33, sec. 175, in part, it should be deemed that the Legislature intended to exclude executors, and such a guardian as the applicant is, from the right to be paid such moneys, and to make them payable in such a case as this—as it is said that the society owing the money in