

tiffs may be well compensated in damages, and are not irreparable, I do not think the plaintiffs should have an injunction.

I shall not name a Referee until notified by the parties that they have failed to agree upon one.

Costs of the action and reference will be reserved until after report.

DIVISIONAL COURT.

AUGUST 2ND, 1910.

*WILSON v. HICKS.

Life Insurance—Assignment of Policy to Stranger—Delivery—Gift—Intention—Revocation—Insurance Act, R. S. O. 1897 ch. 203, sec. 151, sub-secs. 3, 4, 5—Absolute Assignment not to be Construed as Designation of Beneficiary.

Appeal by the defendant from the judgment of BRITTON, J., ante 429, in favour of the plaintiff.

On the 28th December, 1888, the plaintiff effected an endowment insurance for \$5,000, the annual premium upon which was \$250.50. On the 22nd December, 1896, the plaintiff executed an assignment of the policy to the defendant, describing her as his "fiancée." The consideration stated was \$1 and "other valuable considerations." The policy was properly described in the assignment by number and the name of the company. Neither the policy nor the assignment was under seal. There was in fact no consideration for the assignment—it was a gift or attempted gift inter vivos. The plaintiff did not inform the defendant of the fact that he had made the assignment until February, 1897. On the 5th April, 1897, the plaintiff wrote the defendant a letter in which he stated that the assignment was enclosed, but he did not in fact send her the assignment. He sent the assignment to the insurance company, who made a memorandum of it and notified the defendant of it.

In January, 1909, the plaintiff asked the defendant to reassign the policy, which she refused to do; and on the 23rd January, 1909, the plaintiff, by an instrument under seal, assumed to revoke the assignment and to direct that all moneys due under the policy should be paid to himself or his estate. The plaintiff paid the premiums and kept the policy alive.

* This case will be reported in the Ontario Law Reports.