

amount of his insurance to \$3,000, making the additional \$1,000 payable to his brother William F. Miller; and on 18th June, 1894, a new certificate was issued for \$3,000, payable \$2,000 to Christiana W. Miller, wife, and \$1,000 to William F. Miller, brother. On 4th August, 1899, the insured applied to reduce the insurance, and he made the indorsement on the certificate that payment was to be made to his wife \$1,000, to his brother \$1,000, and that he cancelled the remaining \$1,000.. On 11th October, 1899, a new certificate issued in favour of John W. Miller, called "reduced certificate," for \$2,000, and this amount was made, in the body of the certificate, payable to Christiana W. Miller, wife, \$1,000, and to William F. Miller, brother, \$1,000.

John Wesley Miller died on 10th July, 1904, not having made any will or changed in any way the certificate of 11th October, 1899.

Mrs. Miller claims under this certificate, and she claims the whole amount, as she says the \$1,000 reduced on 4th August, 1899, and as appears in the last certificate, was an unauthorized and unlawful diversion of that \$1,000 from her to the brother.

In the proofs of claim put in, the last certificate is referred to, and that is the one on which this claim is based.

In view of sec. 159 of the Ontario Insurance Act, and of possible difficulties in the interpretation of that Act, I think the petitioners are entitled to the usual order for payment in of the \$1,000, less the costs of this application.

Apparently there are few, if any, facts in dispute, but the question as to the ownership of this money is mainly one of law.

If Christiana W. Miller desires an issue to determine the question as to who is entitled to the money, I will direct such issue, in which she will be plaintiff, and William F. Miller will be defendant. I so order because upon the face of the new beneficiary certificate the \$1,000 is payable to him, and so far as appears this sum is merely the continuation of a new insurance for his benefit. . . . Prima facie it was not a diversion of any insurance effected in favour of the wife.

If Christiana W. Miller does not accept the issue within ten days, the claimant William F. Miller may make an application, upon notice to her, for payment out to him of the money paid in by petitioners.