

gave a specific sum to each of eight of his children, some of the sums being more and some less than \$600, the total sum given being \$5,100. In doing this the testator said nothing as to his wife or the other child, Thomas Evans Carbery. The power which the testator had, under s. 160 of the Ontario Insurance Act, was to "make or alter the apportionment" of the moneys.

Held, that what he did by his will was a re-apportionment of them; and the former apportionment remained, except so far as it was changed by the re-apportionment. Had the policies all been good, each of the eight children would have been entitled to the specific sum given him or her by the will, and the wife and the other children would have been entitled, by virtue of the original apportionment in their favour, varied by the re-apportionment, to the \$900 balance divided between them equally. But, as one of the policies turned out to be worthless, and there was only \$4,000 to distribute, the sum going to each of the beneficiaries must abate in due proportion.

Order made for payment to Emma Carbery of her proper proportion according to the above disposition. The other persons entitled might come in for similar orders or might be embraced in this order on the settling of it.

W. L. Walsh for applicant. *F. W. Harcourt* for the two infant children of the testator. *R. McKay* for widow and *T. E. Carbery*.

Meredith, J.]

IN RE CRAIG AND LESLIE.

[Dec. 21, 1898.

Execution—Order of Master of Titles—Land Titles Act, ss. 91, 92—Order of court—Receiver—Equitable execution.

Upon the proper construction of s. 92 of the Land Titles Act, R.S.O., c. 138, a person entitled to payment of costs under an order of a Master of Titles, made by virtue of s. 91, can have "execution issued" by the proper officer upon the order and certificate of the master, without any order of the High Court directing or permitting it; and the practice of the High Court in regard to issuing execution is made applicable by the words of the section, "in the same manner in all respects as if the order made by the master were the order of the Court;" and by that practice "issuing execution" means issuing such process as, under the Consolidated Rules, is applicable to the case, see Rule 836, and does not include that mode of enforcing payment, by way of a receiver, usually called "equitable execution." And, even if an application to the Court were necessary in order to have "execution issued," those words would not include the appointment of a receiver.

In re Shephard, 43 Ch. D. 131, *Croshaw v. Lyndhurst Ship Co.* (1897) 2 Ch. 154, and *Norburn v. Norburn* (1894) 1 Q.B. 448, followed.

H. L. Dunn, for applicants. *G. G. S. Lindsey and Hall*, for respondents.