

meaning of the terms of the gift that very burdensome conditions were imposed upon the devisee ; and that no such conditions would be imposed on the devise to A. C. by this construction, as the two sums of \$1,000 each charged in favor of his brothers were charged upon the whole fee, and if paid by him his personal representatives on his death could enforce repayment to his estate.

Held also, that the widow of A. C. was entitled to dower out of the lands devised to him, notwithstanding the defeasible character of his estate ; that she was also entitled to the annuity of \$50 per annum given her by the will, it not being inconsistent with her right to dower, and she was therefore not put to her election ; that the limitation of the annuity to widowhood was not invalid as being in undue restraint of marriage ; and that she could not claim a distributive share of the devised lands under the Devolution of Estates Act, which applies only to descent of inheritable lands.

The mortgagee of the reversionary interest of one of his brothers in the lands devised to A. C. was improperly added in the Master's office as a party to an administration action, and could take objection at any time to the proceeding either by way of appeal from the report or on further directions ; she was not limited to the time mentioned in Order 48, Ont. Jud. Act, which refers only to a motion to discharge or vary the decree.

Appeal allowed with costs.

Moss, Q.C., and *Hall*, for appellants.

Shepley, Q.C., and *Simpson*, for respondent, Allen.

Riddell, Q.C., for respondent, Jeanne Cowan.

Quebec.]

[May 21.

DUFRESNE v. GUEVREMONT.

Appeal from Court of Review—Appeal to Privy Council—Appealable amount—Addition of interest—C.C.P. arts(1115, 1178, 1178,a—R.S.Q. art. 2311—54-55 Vict. (D.) c. 25, sec. 3, s.s. 3—54 Vict. (Q.) c. 48.

Under 54-55 Vict. (D.) ch. 25, sec. 3, s.s. 3 there is no appeal to the Supreme Court of Canada from a decision of the Court of Review which would not be appealable as of right to the Privy Council.

In determining the right of either party to an appeal to the Privy Council in cases decided in the Court of Review where the judgment of the Superior Court has been affirmed and no appeal lies to the Court of Queen's Bench for Lower Canada, the provisions of art. 2311 R.S.Q. (making the amount in dispute depend on the amount demanded and not on that recovered, where they are different), will not permit the addition of interest pendente lite to the original demand in order to raise the amount in controversy to the appealable amount.

Stanton v. The Home Insurance Co., 2 Legal News, 314, followed.

Allan v. Pratte, 13 App. Cas. 780, and *Monette v. Lefebvre*, 16 S.C.R. 387, referred to.

Appeal quashed without costs.

Ouimet, Q.C., and *Emard*, for motion.

Fleming, Q.C., and *Germain*, contra.