

amounting to \$700. The evidence is much the same in both cases; the first action (*McDonald v. Horan*) failed on grounds disclosed in part in the report 12 O. W. R. 1151, and the second case (this action) has been, on interlocutory application, before Mr. Justice Britton, as reported in 13 O. W. R. 272.

I notice in the report of oral judgment in the former case that my opinion was in favour of the credibility of the wife; she so impressed me in the present trial. I believe that she advanced \$200 to her husband in 1902 or 1903, which was paid upon a mortgage on the farm, and that she also advanced him \$100. I think it is true that she toiled hard on the place at outdoor and indoor work on account of the physical incapacity of the husband. The parties, I think, all acted (even the conveyancer who drew the deed) on the belief that she was entitled to dower, and she positively refused to sign the deed to Horan unless her claims were recognised: *Forest v. Laycock*, 18 Gr. at p. 621; *Re Vautier*, 7 Mans. 291. While the transaction as to the \$300 of debt was between her and her husband, the transaction as to the bar of dower in the deed was between her and Horan. The notes did not come to her through her husband, but were made to her and payable to her. The bona fides of the transaction has been affirmed by me in the previous judgment as against Horan, and that, I think, involves the conclusion that the payment, so far as it relates to the assumed right of dower in the wife, is not impeachable under ch. 147. The \$400 does not represent money of the husband's which was given to the wife, but it represents what Horan paid to get a deed signed by the wife in respect of her supposed dower.

The other \$300 is to be treated as if it were paid or turned over by the husband to the wife, and might be a proper subject of attack under ch. 147, sec. 2, sub-sec. 2. But, so far as regards the \$200 which went to relieve a mortgage on the land, the payment cannot be regarded as an unjust preference. The land was to that extent exonerated, and there was no unfairness in recouping the wife to that extent.

There remains only \$100 which might be impeachable under the statute. But it is to be remembered that Horan paid in \$100 of the \$200 before action, and the money cannot be traced, and that the others were cashed by Mrs. Horan before action for \$485, as to about \$400 of which Mr. Justice Britton granted the injunction. The amount in her possession is now (as she tells us at the trial) reduced to \$275.

It is not necessary to attribute any part of this to either the \$100 or \$200 advanced to the husband; and indeed as to whole