

RIDDELL, J.:—John Burrows, of Bytown (now Ottawa), on 16th January, 1848, made his last will and testament, still of record in the Court of Probate, Toronto. The clauses of importance are as follows: "Also the parts shewn in the accompanying sketch . . . numbered 5, 6, 7, 8, 9, 10, 11, and 12, on which the Chaudiere Cottage and other buildings were erected, shall be in charge of my beloved wife. Should it hereafter be found advisable to dispose of the same, it may be done by my executors with the consent of my wife, but should such disposal be found unnecessary, then shall my beloved wife enjoy any benefit that may arise therefrom by building or other improvements erected thereon during her lifetime, and that she may dispose of the same to her surviving present minor children, her daughter Armanilla Andrews to be considered one of them, by will."

Then a codicil made 29th January, 1848, provides: "I do desire that the lot commonly called the Cottage lot and other parts adjoining or marked in the aforesaid sketch accompanying this will, and being Nos. 5, 6, 7, 8, 9, 10, 11, and 12, as already noticed in my will, cannot be sold in any wise without the consent of my beloved wife, or shall it be advisable to sell any part or parts of the said Cottage lot or lots adjoining as above mentioned, the proceeds of such sale shall be lodged in a bank in the name of my beloved wife, to be drawn out by her when required for the benefit of the estate or her children or at her disposal, as already stated."

Letters of probate were granted by the old Court of Probate (Lord Elgin being Judge thereof), and the will and codicil "proved, approved, and registered" 14th September, 1848, the executors proving being William Peters, the Rev. J. C. Davidson, the Rev. William Andrews, and Henry Burrows.

A memorial of an indenture of quit claim is produced from the registry office shewing that on 25th February, 1861, the executor and executrix of William Peters and the other 3 executors of John Burrows "did bargain, sell, and quit claim" to the widow certain of this land for the alleged consideration of \$100.

In April, 1889, the widow grants in fee all that remains of this property to her daughter Armanilla Andrews; and she in August, 1889, sells to defendant. This may be called land "A."