

trust for the persons entitled to share in the testator's residuary estate.

There should be a declaration accordingly; and, if all parties consent, then costs should be paid out of the estate; if all parties do not consent, counsel may mention the question of costs to the learned Judge.

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KELLY, J.

JULY 6TH, 1920.

WILSON v. WILSON.

*Husband and Wife—Action for Alimony—Farm Conveyed to Wife—Husband Leaving Farm upon Order of Wife—Payment of Allowance Fixed by Order under Deserted Wives' Maintenance Act—Failure to Prove Cruelty—Desertion not (in Circumstances) a Ground for Alimony—Counterclaim—Ownership of Farm and Chattels—Improvements Made by Husband—Lien—Costs.*

An action for alimony, and a counterclaim by the defendant to establish his title to a farm which had been conveyed to the plaintiff and to certain chattels upon the farm.

The action and counterclaim were tried without a jury at Kenora.

H. P. Cooke, for the plaintiff.

J. A. Kinney, for the defendant.

KELLY, J., in a written judgment, said that, as between the plaintiff's evidence and that of the defendant, the latter should be accepted, even if it were not supported by other testimony. The evidence of John Wilson, their son, coupled with that of the defendant, put it beyond any doubt that the cause of the unhappy relations of the parties was the plaintiff's unreasonable, overbearing, and irritating conduct towards her husband. The plaintiff ordered the defendant to leave the farm, which had been purchased in her name, and he did leave, and had not lived with the plaintiff or his family since July, 1917. In August, 1919, he inserted in the local newspaper a notice that he would not be responsible for her debts. He had then been for several months paying the plaintiff a weekly sum of \$10, under an order made in February, 1919, under the Deserted Wives' Maintenance Act, R.S.O. 1914 ch. 152; and he continued to make these pay-