

The learned Judge said that he had, with some hesitation, come to the conclusion that the executor could not recover the interest paid to the widow.

The testator died seised in fee simple of land other than that upon which the dwelling referred to stood. *Prima facie* any benefit given to a widow is in addition to her dower. No contrary intention being indicated in the will, the widow was entitled to dower in this other land and was not put to an election: *Rudd v. Harper* (1883), 16 O.R. 422; *Re Shunk* (1899), 31 O.R. 175; *Re Hurst* (1905), 11 O.L.R. 6.

Order declaring accordingly; costs out of the estate—those of the executor as between solicitor and client.

SUTHERLAND, J., IN CHAMBERS.

OCTOBER 1ST, 1919.

JARVIS v. O'HARA.

Assignments and Preferences—Action against Brokers for Money Claim—Assignment by Defendants for Benefit of Creditors pendente Lite—Claim Filed by Plaintiff in Action with Assignee—Identity of Claim with that Made in Action—Notice of Contestation Given by Assignee—Action not Brought to Establish Claim and Order of Judge Extending Time not Obtained within 30 Days—Assignments and Preferences Act, R.S.O. 1914 ch. 134, sec. 27—Order Adding Assignee as Defendant in Action and Amending Proceedings by Seeking Declaration of Right to Rank on Estate—Order Improperly Made.

Appeal by G. T. Clarkson, assignee for the benefit of creditors of the defendants, brokers, from an order of the Master in Chambers allowing the plaintiff to add the appellant as a party defendant and to amend the statement of claim by asking for a declaration that the plaintiff was entitled to rank upon the estate of the original defendants in the hands of the appellant.

Hamilton Cassels, K.C., for the appellant.
H. J. Scott, K.C., for the plaintiff.

SUTHERLAND, J., in a written judgment, said that the action was begun on the 12th December, 1917. The defendants were the firm of H. O'Hara & Co. and the individual members of the firm, Henry O'Hara and S. P. O'Hara. In August, 1918, Henry O'Hara died, and in the following month S. P. O'Hara, as sole surviving member of the firm, made an assignment for the benefit