

Held, per RITCHIE, C.J., FOURNIER and PATTERSON, JJ., that the right of a husband to the personal property of his deceased wife does not depend upon the Statute of Distribution, but he takes it *jure mariti*.

Per STRONG, J., that the repeal by the Revised Statutes of Geo. 3, c. 11, which was passed in the affirmance of the Imperial Acts, operated to restore s. 25 of the Statute of Frauds as part of the common law.

Per GWYNNE, J.: When a colonial legislature re-enacts an Imperial Act it enacts it as interpreted by the Imperial courts, and *a fortiori* by other Imperial Acts. Hence, when the English Statute of Distributions was re-enacted by 26 Geo. 3, c. 11 (N.B.), it was not necessary to enact the interpreting section of the Statute of Frauds, and its omission in the Revised Statutes did not affect the construction to be put upon the whole Act.

Held, per RITCHIE, C.J., FOURNIER, GWYNNE, and PATTERSON, JJ., that the Married Woman's Property Act of New Brunswick (C.S.N.B., c. 72), which exempts the separate property of a married woman from liability for her husband's debts and prohibits any dealing with it without her consent, only suspends the husband's rights in the property during coverture, and on the death of the wife he takes the personal property as he would if the Act had never been passed.

The Supreme Court of New Brunswick, while deciding against the next of kin on his claim to the residue of a *feme covert*, directed that his costs should be paid out of the estate. On appeal, the decree was varied by striking out such direction.

Appeal dismissed with costs.

W. W. Wells for appellant.

Skinner, Q.C., for respondent.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

BARBER v. CLARK.

Mistake—Will—Legacy—Interest.

This was an appeal by the defendant, John R. Barber, from the judgment of the Chancery Division, reported 20 O.R. 522, and came on to be heard before this court—HAGARTY, C.J.O.,

BURTON, OSLER, and MACLENNAN, JJ.A.—on the 28th of September, 1891.

J. H. Macdonald, Q.C., for the appellant.

G. H. Kilmer for the respondent.

At the conclusion of the argument, the court dismissed the appeal with costs, agreeing with the reasons for judgment in the court below.

ABRAHAM v. ABRAHAM.

Alimony—Judgment—Registration—Priorities—Assignments and preferences—R.S.O. (1887), c. 44, s. 30—R.S.O. (1887), c. 124, s. 9.

This was an appeal from the judgment of MACMAHON, J., reported 19 O.R. 256, by one John Iddington, a creditor of the defendant, in the name of John Hossie, assignee for the benefit of the creditors of the defendant, pursuant to an order made under the provisions of the Assignments Act. The appeal came on to be heard before this court (HAGARTY, C.J.O., BURTON, OSLER, and MACLENNAN, JJ.A.) on the 15th September, 1891.

Moss, Q.C., for the appellant.

J. P. Mabey for the respondent.

At the conclusion of the argument, the court dismissed the appeal with costs, agreeing with and adopting the reasons for judgment given in the court below.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

FALCONBRIDGE, J.]

[Sept. 2.]

IN RE DAVIS AND THE CITY OF TORONTO.

Municipal corporations—By-law—Construction of sewer—Acquiring easement over adjoining lands—R.S.O., c. 184, s. 479, s.s. 15—"Using," meaning of—Quashing by-law—Acting upon by-law—Estoppel—Notice to appoint arbitrator—Costs.

A by-law of a municipal corporation authorizing the construction of a sewer provided, *inter alia*, that for the purpose of the construction the corporation might enter upon and use and occupy with horses, etc., the lands lying within twenty-five feet on either side of the centre line of the sewer; also, that after construction the