

there is a subsisting right of action at the date of death, which the injured person might have exercised if death had not ensued ; and therefore on the face of the declaration no right was shown to the remedy under Art. 1056. One judge of the three who sat in Review sustained this pretention, but the Court of Queen's Bench unanimously pronounced against it. The late Sir A. A. Dorion, who delivered the judgment of the Court, stated his conviction very strongly that the question of prescription of the husband's claim could not affect the right of the wife, provided she sued within a year after his death ; that the action of the widow under Art. 1056 is a new and distinct action, given to her whenever the husband dies without having obtained indemnity. The case went to the Supreme Court for the second time, and there Mr. Justice Fournier was equally positive that the widow's right was not affected by prescription against the husband ; but Mr. Justice Taschereau, whose opinion was concurred in by the other members of the Court, held the contrary.

We find, therefore, that eight judges in all support the widow's claim, (the eight being all from the bar of this province), while six judges (two only from this province), hold that it does not exist.

That the terms of Art. 1056 are tolerably clear in themselves is abundantly evident from the fact that during half a dozen years of litigation everybody interpreted them in the same way. No question was raised as to their meaning. The article reads : " In all cases where " the person injured by the commission of an offence or " a quasi offence dies in consequence, *without having* " *obtained indemnity or satisfaction*, his consort and his ascendant and descendant relations have a right, *but only* " *within a year after his death*, to recover from the person " who committed the offence or quasi offence, or his representatives, all damages occasioned by such death." The majority of the Supreme Court, apparently, would add to the words " without having obtained indemnity or satisfaction," the words " or without a sufficient time