

# The Ontario Weekly Notes

Vol. I.

TORONTO, MAY 18, 1910.

No. 34.

COURT OF APPEAL.

APRIL 12<sup>TH</sup>, 1910.

\*O'REILLY v. O'REILLY.

*Husband and Wife—Marriage Contract—Quebec Law—Sum of Money Payable to Wife after Death of Husband—Right of Wife to Rank as Creditor upon Insolvent Estate of Deceased Husband—Construction of Contract—Onerous or Gratuitous—Consideration—Renunciation of Dower—Insolvency—Intent to Defraud.*

Appeal by the defendants Garland and other creditors of the estate of Edward O'Reilly, deceased, from the order of a Divisional Court, 13 O. W. R. 967, affirming the judgment of BRITTON, J., 12 O. W. R. 688, finding in favour of the plaintiff, the widow of Edward O'Reilly, upon an issue directed by order of the Court, that the marriage contract between Edward O'Reilly and the plaintiff entitled the plaintiff to rank as a creditor of his estate.

The appeal was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.

G. F. Henderson, K.C., for the appellants.

F. H. Chrysler, K.C., for the plaintiff.

J. E. Jones, for the executors of Edward O'Reilly.

Moss, C.J.O.:—Upon the best consideration that I have been able to give to this case, I have reached the conclusion that the judgment ought to be affirmed.

I confess to having experienced much difficulty in arriving at a conclusion entirely satisfactory to my own mind.

\* This case will be reported in the Ontario Law Reports.

VOL. I. O.W.N. NO. 34—44