

SECOND DIVISIONAL COURT.

APRIL 30TH, 1919.

RE MONARCH BANK OF CANADA.

SIMON'S CASE.

Company—Winding-up of Banking Company—Subscription for Shares—Contributory—Allotment Made and Notified to Subscriber—Attempt to Shew, after Winding-up Order, that Subscription Made upon Conditions not Fulfilled—Oral Variation of Written Application—Mistake or Misrepresentation.

Appeal by John Simon from the order of FERGUSON, J.A., in the Weekly Court, 14 O.W.N. 295.

The appeal was heard by Meredith, C.J.C.P., BRITTON, RIDDELL, LATCHFORD, and MIDDLETON, JJ.

W. J. McWhinney, K.C., for the appellant.

W. K. Fraser, for the liquidator, respondent.

THE COURT dismissed the appeal with costs.

HIGH COURT DIVISION.

FALCONBRIDGE, C.J.K.B.

APRIL 28TH, 1919.

O'CONNOR v. FITZGERALD.

Husband and Wife—Contract between—Assignment by Wife to Husband of Beneficial Interest in Policies of Insurance on Life of Husband—Consideration—Promise to Make Will in Certain Way—Will Made but Revoked—Death of Husband Leaving Will Disposing of Estate otherwise than as Agreed—Action by Wife against Executors—Right to Proceeds of Insurance Policies—Joint Policy on Lives of Spouses—Dower—Election.

Action by Cecelia Ann O'Connor, widow of Stephen Henry O'Connor, against the executors of her husband's will, for dower out of his lands and for damages for the detention of dower. The plaintiff alleged that she had elected to take dower, but that the defendants had neglected to allot or assign dower to her.

By an amendment made at the trial, the plaintiff set up that, without independent legal advice, she, on the 2nd December, 1916,