

E. D. O'Flynn, for the plaintiff.

E. G. Porter, K.C., for the defendant.

FALCONBRIDGE, C.J.K.B.:—The plaintiff is the widow of Alexander Wardhaugh, and the defendant is the administratrix of his estate and effects. The plaintiff was married to the said A. W. in 1887. They lived in Belleville as husband and wife for about five years, when the said A. W. became addicted to the use of intoxicating liquor, and the plaintiff and the said A. W. executed a deed of separation bearing date the 26th May, 1892.

About two years afterwards, the said A. W., having promised to abstain from the use of intoxicants and to lead a better life, induced the plaintiff to live with him again. The plaintiff gave up a business she was carrying on for herself, and joined A. W. and his business, which was carried on successfully by both of them.

About the year 1900, A. W. again commenced the drinking habit, and treated the plaintiff with cruelty, so that she took proceedings for her own protection in the Police Court. She also brought an action for alimony. Her statement of claim was delivered on the 17th November, 1902. That action was settled, and a new deed of separation was executed by the husband and wife, which bore date the 22nd November, 1902, in which the agreement for the settlement of the action is set out in extenso. The sum of \$600 was paid to the plaintiff in pursuance of the terms of the settlement. She also contemporaneously executed a release of dower, which release was registered in the registry office on the 15th December, 1902.

After all these events and agreements, he again sobered up and lived properly and induced her to return and live with him, agreeing to burn all the papers and take care of her. He joined the Baptist Church; taught a Sunday school class; became a member of the Y.M.C.A.; and for some years led an exemplary life; and the two lived together until the time of his death, which took place suddenly on the 8th March, 1912.

For some time before his death, the said A. W. had again relapsed into dissipation, but the plaintiff remained with him and assisted him in his business, and was living with him as his wife at the time of his death, aforesaid. She now asks for a declaration that the said agreements of separation, and the release of dower, should be cancelled as null and void, and that she is entitled to rank against the estate of the said A. W. as his widow.

Mr. Porter does not controvert the proposition that a separa-