

NEILL V. NEILL ET AL.—KELLY, J.—JAN. 19.

*Husband and Wife—Moneys of Wife Invested by Husband—Evidence—Declaration of Right of Wife to Securities Representing Moneys Invested.*—Action for a declaration of the plaintiff's right to certain moneys invested by her husband, the defendant William J. Neill, in his own name. The action was tried without a jury at a Toronto sittings. KELLY, J., in a written judgment, said that after the opening of the trial an arrangement was come to between the plaintiff and the defendant Anna Neill in respect of some of the assets brought into question in the action; and the only matter left undisposed of was the plaintiff's claim in respect of an investment of \$10,000 in Victory bonds. The evidence was clear and uncontradicted that the plaintiff, at the time of her marriage, was entitled to a large sum of money from the estate of her father; that these moneys were transferred from South Africa to Canada, and got into the possession of the defendant William J. Neill; that the plaintiff did not part with the ownership thereof, her husband merely having possession of such of the moneys and assets as came into his possession on an understanding that he would return them as and when required by her. In 1914 the husband went overseas, and about the end of 1917 he invested in the purchase of \$10,000 worth (par value) of Victory bonds. There was evidence, not only of the plaintiff, but of a witness who was thoroughly familiar with the defendant William J. Neill and his financial condition from 1914 to 1918, and who had conversed with him, that the moneys out of which these bonds were purchased were moneys of the plaintiff, and there was nothing in contradiction of this evidence. There should be judgment in terms of consent minutes as between the plaintiff and the defendant Anna Neill, and judgment declaring the plaintiff entitled to the Victory bonds. The defendant William J. Neill should pay the plaintiff's costs of the action. J. Lorn McDougall, for the plaintiff. D. Inglis Grant, for the defendant Anna Neill. The other defendants were not represented at the trial.