

Gower. By his will he gave to his wife his real and personal property as long as she should remain single; if she married, the property was to be sold, she was to receive \$200, and the remainder of the money was to be divided between the testator's two daughters; if she remained single till her death, the property was to be sold and the proceeds to be divided between the two daughters. The widow was said to have married the defendant Michael O'Callaghan about the year 1910; she died on the 23rd May, 1916. The defendants never proved the will, and refused to administer the estate. The defendant Michael O'Callaghan denied his executorship and repudiated the plaintiff's claim; he set up that the deceased was not the owner of the farm of which he was in possession at his death, and asserted title in himself (Michael) by length of possession. The action was tried without a jury at Ottawa. BRITTON, J., in a written judgment, after setting out the facts, said that there was no sufficient evidence of the actual marriage of the widow to Michael. If the widow did not marry, she held the land for her life. William died in possession of the land, and that was *prima facie* evidence of ownership. The *prima facie* case had not been rebutted. There should be administration of the estate of William. The defendant Michael was not entitled to receive from the plaintiff anything for her maintenance. She worked in the field and at house-work at least enough to entitle her to food, clothing, and education. If it appeared otherwise in the administration proceedings, the claim could be dealt with by the Master. The defendant Michael had not made out a case for the value of improvements made under a mistake of title. Judgment for the plaintiff for administration; reference to the Local Master at Ottawa. The plaintiff's costs of the action up to judgment, fixed at \$125, to be paid by the defendant Michael O'Callaghan. The costs of the administration, commission and disbursements, to be paid out of the estate. J. R. Osborne, for the plaintiff. R. A. Pringle, K. C., and F. B. Proctor, for the defendants.