

SUTHERLAND, J., in a written judgment, said that sec. 17 of the Dower Act required that the order should be applied for "during the lifetime of the grantor or mortgagor;" and proof that he was alive in August was hardly sufficient.

A more serious objection, having regard to the provisions of secs. 14 (2) and 17 of the Act, was, that it did not appear that the wife had been living apart from her husband in such circumstances as disentitled her to dower; and an order could not be made until a Judge had investigated and ascertained the value of her dower.

It was said that the land was worth little more than the amount of the mortgage: *Re Auger* (1912), 26 O.L.R. 402; but, even so, an order could not properly be made on this motion until after ascertainment of the value of the dower.

No order.

SUTHERLAND, J.

JANUARY 4TH, 1917.

RE MILES.

Will—Construction — Residuary Clause—Executors to Dispose of Residue "in such Manner as may in their Discretion Seem Best"—Trust—Beneficial Interest—Next of Kin.

Motion by the executors upon originating notice for an order determining questions as to the construction of the will of Edmund Miles, deceased.

The motion was heard in the Weekly Court at Ottawa.

A. H. Armstrong, for William Northwood, executor.

J. R. Osborne, for C. H. Jones, the other executor.

J. F. Orde, K.C., for the Attorney-General for Ontario.

SUTHERLAND, J., in a written judgment, said that the testator bequeathed the assets and goodwill of his business in the city of Ottawa to three of his employees, and gave legacies of \$100 to the Beachwood Cemetery Company and \$200 each to the St. John's Church Ottawa Poor Fund and the Canadian Patriotic Fund. The residue of his estate, both real and personal, he devised and bequeathed unto his executors "to be by them disposed of in such manner as may in their discretion seem best."