

There will be a declaration that the survivorship mentioned in the will of John Roger Johnson was referable to the death of the testator; and, upon the testator's death, Margaret J. Johnson and Catharine Lillian Froom took as tenants in common. There will be no order as to costs.

---

RE S.—KELLY, J.—JUNE 27.

*Husband and Wife—Dower—Forfeiture—Adultery—R.S.O. 1897 ch. 164, sec. 12.*]—Application under sec. 12 of the Dower Act, R.S.O. 1897 ch. 164, to authorise the applicant to sell, free from the dower of his wife, certain lands described in the affidavits filed, and to declare that the wife had forfeited her right to dower. The facts, as shewn by the affidavits filed by the applicant, were that the applicant married his wife in 1856; that they lived together as husband and wife until 1871, there being then four children of the marriage; that in 1871 the wife left home with one R., taking with her the four children; and she continued to live with R. as his wife from that time; that she and the four children adopted the name of R.; that two children at least were born to her while living with R.; that, soon after she left her husband, he followed her to Montreal for the purpose of having her return, but she evaded him, and thereafter lived with R., at first in the Province of Quebec, then in Toronto, and later in British Columbia. In 1907 she called on the applicant and requested him to sign a writing declaring that he had not been properly married to her, the object being to establish that her son by R. was a legitimate son of R. and herself, so that he might inherit certain property of R., who was then dead. The applicant in his affidavit stated that she at that time admitted to him that she lived with R. as his wife down to the time of his death, and that she had a number of children by R. With the exception of this occasion, and perhaps at one other time prior thereto, the applicant had not since 1871 seen his wife, and he did not know whether she was living or dead. KELLY, J., said that on the facts as submitted, and for the reasons given in Re S., 14 O.L.R. 536, and the cases therein considered, it was quite clear that the wife of the applicant was not entitled to dower. The applicant was entitled to an order dispensing with the concurrence of the wife for the purpose of barring her dower. W. J. McLarty, for the applicant.