

THE  
ONTARIO WEEKLY REPORTER

VOL. 22 TORONTO, AUGUST 15, 1912.

No. 12

HON. MR. JUSTICE BRITTON.

JULY 2ND, 1912.

CORNWALL SINGLE COURT.

RE JOHNSON.

3 O. W. N. 1571.

*Will—Construction—“Survivor”—Period of Ascertainment—Death of Testator.*

BRITTON, J., *held*, that where a testator devised his property to his mother, M. J., and to his sister, C. F., “or the survivor of them,” the date of survivorship was the death of the testator, and both beneficiaries having survived him, took as tenants-in-common.

Motion by Eliza Blackwood, executrix of the will of the late Margaret J. Johnson, the mother of John Roger Johnson, and one of the devisees named in his will.

John Roger Johnson made his will on the 1st September, 1904—in the words following:—

(1) “I will and direct my executrices hereinafter named to pay my just debts and funeral and testamentary expenses out of my personal estate.

(2) I will and devise all of my real and personal estate to my mother Margaret J. Johnson and to my sister Catharine Lillian Froom, or the survivor of them.

(3) I hereby appoint my mother Margaret J. Johnson, and my sister Catharine Lillian Froom executrices of this my will, and I hereby revoke all other wills by me heretofore made.”

The testator died on 9th May, 1905. Both his mother Margaret and his sister Catharine survived him, but the mother, Margaret, died on 22nd November, 1911.

George A. Stiles, for Eliza Blackwood.

R. A. Pringle, K.C., for Catharine Lillian Warner, formerly Catharine Lillian Froom.