

51,1930

In the Privy Council.

No. 9 of 1930.

**ON APPEAL FROM THE SUPREME COURT
OF ONTARIO (APPELLATE DIVISION).**

IN THE MATTER OF THE LAST WILL AND TESTAMENT AND TWO CODICILS
OF THOMAS SAUNDERS HOBBS LATE OF THE CITY OF LONDON
IN THE COUNTY OF MIDDLESEX AND PROVINCE OF ONTARIO, MERCHANT,
DECEASED.

BETWEEN

EWART FIELD, EVA FIELD HARVEY, ELIZABETH
M. FERGUSON, RHODA HOBBS, EVA PUDDI-
COMBE, WINIFRED KINGSMILL AND MARY
EDWARDS - - - - - *Appellants*

AND

THE LONDON AND WESTERN TRUSTS COMPANY,
LIMITED, SAMUEL FRANCIS WOOD AND JOHN
WINER WARDROPE, EXECUTORS OF THE WILL AND
CODICILS OF THOMAS SAUNDERS HOBBS, DECEASED,
HAROLD FERGUSON FISHLEIGH, W. R.
HOBBS, JOHN W. HOBBS, FRANK HOBBS,
ELSIE MAY FISHER, BEATRICE DALTON,
CONSTANCE BROWN, YVONNE WELD, MARY
ANN LIND, NIGEL EDWARDS, IAN EDWARDS,
CHARLES D'ARCY KINGSMILL AND MARY
KINGSMILL, THE LAST FOUR NAMED BEING INFANTS
UNDER THE AGE OF 21 YEARS - - - - - *Respondents.*

RECORD OF PROCEEDINGS.

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In the Privy Council.

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THE LONDON AND WESTERN TRUSTS COMPANY,
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CODICILS OF THOMAS SAUNDERS HOBBS, DECEASED,
HAROLD FERGUSON FISHLEIGH, W. R.
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CHARLES D'ARCY KINGSMILL AND MARY
KINGSMILL, THE LAST FOUR NAMED BEING INFANTS
UNDER THE AGE OF 21 YEARS - - - - - *Respondents.*

RECORD OF PROCEEDINGS.

No. 1.

Order of Mr. Justice Hodgins admitting Appeal to His Majesty in Council.

IN THE SUPREME COURT OF ONTARIO.

Friday the 7th day of February A.D. 1930.

The Honourable Mr. JUSTICE HODGINS.
In Chambers.

IN THE MATTER of the last Will and Testament and Two Codicils of
THOMAS SAUNDERS HOBBS, late of the City of London, in the County
of Middlesex, Merchant, deceased.

1. UPON application of counsel for Ewart Field, Eva Field Harvey, 10
Elizabeth M. Ferguson, Rhoda Hobbs, Eva Puddicombe, Winifred Kings-

*In the
Supreme
Court of
Ontario.*

No. 1.
Order of
Mr. Justice
Hodgins
admitting
Appeal to
His Majesty
in Council,
7th Febru-
ary 1930.

- mill and Mary Edwards, in the presence of counsel for the London and Western Trusts Company, Limited, Samuel Francis Wood, and John Winer Wardrope, Executors of the Will and Codicils of Thomas Saunders Hobbs, deceased, Harold Ferguson Fishleigh, W. R. Hobbs, John W. Hobbs, Frank Hobbs, Elsie May Fisher, Beatrice Dalton, Constance Brown, Yvonne Weld and Mary Ann Lind, and of the Official Guardian, representing Nigel Edwards, Ian Edwards, Charles d'Arcy Kingsmill and Mary Kingsmill infant grand-children of Eva Puddicombe upon hearing read the Judgment of the First Divisional Court of the Appellate Division of the Supreme Court of Ontario pronounced on the 20th day of September 1929, the Reasons for said Judgment, and the bond of THE EMPLOYERS' LIABILITY ASSURANCE CORPORATION, LIMITED, dated the 1st day of February A.D. 1930, filed, and upon hearing what was alleged by counsel aforesaid, and it appearing that the case is one in which the said Ewart Field, Eva Field Harvey, Elizabeth M. Ferguson, Rhoda Hobbs, Eva Puddicombe, Winifred Kingsmill and Mary Edwards have, under the provisions of the Privy Council Appeals Act, R.S.O. 1927, Chapter 86, a right to appeal to His Majesty in His Privy Council.
2. IT IS ORDERED that the said bond be approved and allowed as good and sufficient security that the said Ewart Field, Eva Field Harvey, Elizabeth M. Ferguson, Rhoda Hobbs, Eva Puddicombe, Winifred Kingsmill and Mary Edwards will effectually prosecute their appeal to His Majesty in His Privy Council from the Judgment of the First Divisional Court and will pay such costs as may be awarded in case the said Judgment is confirmed.
3. AND IT IS FURTHER ORDERED that an appeal by the said Ewart Field, Eva Field Harvey, Elizabeth M. Ferguson, Rhoda Hobbs, Eva Puddicombe, Winifred Kingsmill and Mary Edwards to His Majesty in His Privy Council from the said Judgment of the First Divisional Court be and the same is hereby admitted.
4. AND IT IS FURTHER ORDERED that the costs of this application be costs in the said appeal.

*In the
Supreme
Court of
Ontario.*

No. 1.
Order of
Mr. Justice
Hodgins
admitting
Appeal to
His Majesty
in Council,
7th Febru-
ary 1930—
continued.

E. HARLEY,
Senior Registrar,
S. C. O.

Let this order
issue.

F. E. H., J. R.
7/2/30.

*In the
Supreme
Court of
Ontario.*

No. 2.
Order of Consolidation.

IN THE SUPREME COURT OF ONTARIO.

Thursday the 20th day of February 1930.

No. 2.
Order of
Consolida-
tion,
20th Febru-
ary 1930.

The Honourable Mr. JUSTICE HODGINS.
In Chambers.

IN THE MATTER of the last Will and Testament and Two Codicils of THOMAS SAUNDERS HOBBS, late of the City of London, in the County of Middlesex and Province of Ontario, Merchant, deceased.

Between

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HAROLD FERGUSON FISHLEIGH - - - - - *Appellant*

and

THE LONDON AND WESTERN TRUSTS COMPANY, LIMITED,
SAMUEL FRANCIS WOOD and JOHN WINER WARDROPE,
Executors of the Will and Codicils of Thomas Saunders
Hobbs, Deceased, EWART FIELD, EVA FIELD HARVEY,
ELIZABETH M. FERGUSON, RHODA HOBBS, EVA PUDDI-
COMBE, WINIFRED KINGSMILL, MARY EDWARDS, W. R.
HOBBS, JOHN W. HOBBS, FRANK HOBBS, ELSIE MAY
FISHER, BEATRICE DALTON, CONSTANCE BROWN,
YVONNE WELD, MARY ANN LIND, NIGEL EDWARDS,
IAN EDWARDS, CHARLES D'ARCY KINGSMILL and MARY
KINGSMILL the last four named being infants under the
age of twenty-one years - - - - - *Respondents*

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And between

EWART FIELD, EVA FIELD HARVEY, ELIZABETH M.
FERGUSON, RHODA HOBBS, EVA PUDDICOMBE,
WINIFRED KINGSMILL, and MARY EDWARDS - - *Appellants*

and

THE LONDON AND WESTERN TRUSTS COMPANY, LIMITED,
SAMUEL FRANCIS WOOD and JOHN WINER WARDROPE,
Executors of the Will and Codicils of Thomas Saunders
Hobbs, deceased, HAROLD FERGUSON FISHLEIGH, W. R.
HOBBS, JOHN W. HOBBS, FRANK HOBBS, ELSIE MAY
FISHER, BEATRICE DALTON, CONSTANCE BROWN,
YVONNE WELD, MARY ANN LIND, NIGEL EDWARDS,
IAN EDWARDS, CHARLES D'ARCY KINGSMILL AND MARY
KINGSMILL, the last four named being infants under the
age of twenty-one years - - - - - *Respondents.*

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1. UPON the application of counsel for the appellants in the second appeal in the presence of counsel for the respondents in said appeal and the appellant and respondents in the first appeal (the infants being

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represented by the Official Guardian) for an order consolidating the two appeals to His Majesty in His Privy Council and it appearing that the first appeal was admitted by order dated 19th November 1929 and the second appeal was admitted by order dated 7th February 1930 and that the Record in the first appeal has now been lodged in the Privy Council and upon hearing what was alleged by Counsel aforesaid.

2. IT IS ORDERED that (subject to any order or direction that may be made or given by the Privy Council) the said two appeals to His Majesty in His Privy Council be and they are hereby consolidated and that they
10 do proceed as one consolidated appeal on the Record already filed in the Privy Council in the first appeal, each party being at liberty to file one case in the said consolidated appeal, which case may be limited to one or other of the above mentioned appeals.

3. AND IT IS FURTHER ORDERED that the costs of this application shall be costs in the said appeal.

E. HARLEY,
Senior Registrar,
S. C. O.

*In the
Supreme
Court of
Ontario.*
No. 2.
Order of
Consolida-
tion,
20th Febru-
ary 1930—
continued.

No. 3.

20 **Certificate of Registrar as to service of Notice on Parties.**

IN THE SUPREME COURT OF ONTARIO.

IN THE MATTER of the Last Will and Testament and Two Codicils of
THOMAS SAUNDERS HOBBS, late of the City of London, in the County
of Middlesex, Merchant, deceased.

I, EDMUND HARLEY of the City of Toronto, in the County of
York, Senior Registrar of the Supreme Court of Ontario, do hereby certify
that The London & Western Trusts Company Limited, Samuel Francis Wood
and John Winer Wardrope, Executors of the Will and Codicils of Thomas
Saunders Hobbs, deceased, Harold Ferguson Fishleigh, W. R. Hobbs,
30 John W. Hobbs, Frank Hobbs, Elsie May Fisher, Beatrice Dalton,
Constance Brown, Yvonne Weld and Mary Ann Lind and the Official
Guardian have received notice of the Order of the Honourable Mr. Justice
Hodgins, dated the 7th day of February, A.D. 1930, admitting an appeal
by Ewart Field, Eva Field Harvey, Elizabeth M. Ferguson, Rhoda Hobbs,
Eva Puddicombe, Winifred Kingsmill and Mary Edwards to His Majesty
in His Privy Council from the Judgment of the First Divisional Court of
the Appellate Division of the Supreme Court of Ontario pronounced
herein on the 20th day of September 1929, as is shown by the said Order.

No. 3.
Certificate
of Registrar
as to service
of Notice on
Parties,
27th Febru-
ary 1930.

*In the
Supreme
Court of
Ontario.*

of the Honourable Mr. Justice Hodgins this day produced to me with admission of service thereon signed by the solicitors for the said parties.

IN WITNESS whereof I have hereunto set my hand and the Seal of the Supreme Court of Ontario this 27th day of February A.D. 1930.

No. 3.
Certificate
of Registrar
as to service
of Notice on
Parties,
27th Febru-
ary 1930—
continued.

E. HARLEY,
Senior Registrar of the
Supreme Court of Ontario.

In the Privy Council.

No. 9 of 1930.

*On Appeal from the Supreme Court of Ontario
(Appellate Division).*

IN THE MATTER OF THE LAST WILL AND TESTAMENT AND
TWO CODICILS OF THOMAS SAUNDERS HOBBS LATE
OF THE CITY OF LONDON IN THE COUNTY OF MIDDLESEX
AND PROVINCE OF ONTARIO, MERCHANT, DECEASED.

BETWEEN

EWART FIELD, EVA FIELD HARVEY, ELIZABETH M.
FERGUSON, RHODA HOBBS, EVA PUDDICOMBE,
WINIFRED KINGSMILL AND MARY EDWARDS
Appellants

AND

THE LONDON AND WESTERN TRUSTS COMPANY,
LIMITED, SAMUEL FRANCIS WOOD AND JOHN
WINER WARDROPE, EXECUTORS OF THE WILL AND
CODICILS OF THOMAS SAUNDERS HOBBS, DECEASED,
HAROLD FERGUSON FISHLEIGH, W. R. HOBBS,
JOHN W. HOBBS, FRANK HOBBS, ELSIE MAY
FISHER, BEATRICE DALTON, CONSTANCE
BROWN, YVONNE WELD, MARY ANN LIND,
NIGEL EDWARDS, IAN EDWARDS, CHARLES
D'ARCY KINGSMILL AND MARY KINGSMILL,
THE LAST FOUR NAMED BEING INFANTS UNDER THE AGE
OF 21 YEARS - - - - - *Respondents.*

RECORD OF PROCEEDINGS.

LAWRENCE JONES & Co.,
Lloyd's Building,
3/4, Lime Street, London, E.C.3.
For the Appellants.

BLAKE & REDDEN,
17, Victoria Street, London, S.W.1.
*For the Respondents Harold Ferguson Fishleigh, Nigel Edwards,
Ian Edwards, Charles D'Arcy Kingsmill and Mary Kingsmill.*

SUTTON, OMMANNEY & OLIVER,
3/4, Great Winchester Street, London, E.C.2.
*For the Respondents W. R. Hobbs, John W. Hobbs, Frank Hobbs,
Elsie May Fisher, Beatrice Dalton, Constance Brown, Yvonne
Weld and Mary Ann Lind.*

EYRE AND SPOTTISWOODE, LTD., EAST HARDING STREET, E.C.4.