

51, 1930

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No. 9 of 1930.

In the Privy Council.

B

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.**

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BETWEEN—

HAROLD FERGUSON FISHLEIGH

Appellant

— AND —

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**THE LONDON & 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
PUDDICOMBE, 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**

AND BETWEEN—

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

— AND —

HAROLD FERGUSON FISHLEIGH, THE
LONDON & WESTERN TRUSTS COMPANY LIMITED,
SAMUEL FRANCIS WOOD and JOHN WINER
WARDROPE, Executors of the Will and Codicils ¹⁰
of Thomas Saunders Hobbs, deceased,
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.*

(Consolidated Appeals).

RECORD.

C A S E

20

for EWART FIELD, EVA FIELD HARVEY, WINIFRED KINGSMILL
and MARY EDWARDS, Respondents in the First Appeal and
Appellants in the Second Appeal.

p. 29, l. 30.

p. 16, l. 1.

1. This is an Appeal by Harold Ferguson Fishleigh from the judgment of the First Divisional Court of the Appellate Division of the Supreme Court of Ontario, dated the 20th day of September, 1929, by which the said Court varied the judgment of Mr. Justice

Middleton delivered on the 31st day of March, A.D. 1928, determining certain questions arising under the Will of Thomas Saunders Hobbs submitted for the determination of the Court by the Executors under the said Will; and an appeal by Ewart Field, Eva Field Harvey, Elizabeth M. Ferguson, Rhoda Hobbs, Eva Puddicombe, Winifred Kingsmill and Mary Edwards from the same judgment. The judgment now appealed from declares that according to the true construction of the Will and Codicils in question there is an intestacy as to a one-fifth share of the income payable under the terms of the Will. As to the corpus of the estate, the judgment declares that the shares in the corpus have not vested and will not vest until the death of the last surviving sister of the testator, and until the youngest child born to any of them has attained his or her majority; and that until such shares have become vested the number of shares into which the estate is to be divided and the persons entitled thereto cannot be ascertained.

2. The late Thomas Saunders Hobbs was a merchant residing at the City of London, in the County of Middlesex, in the Province of Ontario, and died on the 30th day of September, A.D. 1927, having made his last Will and Testament bearing date of the 19th of March, A.D. 1902, and two Codicils bearing date respectively the 11th and 27th days of January, A.D. 1927. By the first of such Codicils, the Testator appointed Samuel Francis Wood, John Winer Wardrope and the London and Western Trusts Company Limited to be the Executors of his Will, but except in so far as the Codicils purport to confirm the Will, they do not otherwise directly affect the matters in question on this appeal.

3. At the date of the making of the said Will the Testator had living five sisters, Rhoda Hobbs, Eva Puddicombe, Elizabeth Mary Ferguson, Sarah Ann Field and Caroline Fishleigh, and one brother, W. R. Hobbs. At that date Caroline Fishleigh had two sons living, Ernest Claude Fishleigh who died in 1918, and William Thomas Albert Fishleigh who died in 1904.

4. The Testator died a bachelor on the 30th day of September, A.D. 1927, leaving him surviving his sisters, Elizabeth Mary Ferguson, seventy-five years of age, a widow with no issue living; Rhoda Hobbs, sixty-seven years of age, unmarried; and Eva Puddicombe, sixty-nine years of age, a widow with two children living, namely, Winifred Kingsmill and Mary Edwards, both of whom are married and have children living.

The Testator's sister Sarah Ann Field predeceased the Testator leaving her surviving two children Ewart Field and Eva Field

Harvey, both of whom were of age at the time of the Testator's death and have children living.

p. 7, ll. 28-
38.
p. 8, ll. 18-
29.

The Testator's sister Caroline Fishleigh predeceased the Testator leaving no children, but leaving her surviving one grandchild, the Appellant, Harold Ferguson Fishleigh (born in 1903) who is the son of Caroline Fishleigh's son Albert who died in 1904.

p. 7, l. 35.

W. R. Hobbs, the Testator's brother, predeceased the Testator leaving him surviving three sons and five daughters all of whom survived the Testator.

5. The Will of the late Thomas Saunders Hobbs after providing 10 certain specific bequests provides as follows:—

p. 33, l. 5.
p. 34, l. 6.

"All the residue of my estate I give to my Executors aforesaid in trust
"to realize sufficient thereof from time to time as they may find necessary to
"pay my debts and funeral expenses but with power to continue to hold such
"stocks as I may die possessed of in Joint Stock Companies as they may think
"desirable or to continue any business in which I am engaged at the time of
"my death for a period not exceeding five years from my death
"and after payment of all my said debts to apply the net income
"received from my said business investments, which shall include
"all my interest in the Hobbs Hardware Company, the Hobbs Manufacturing 20
"Company, the Independent Cordage Company, the Canada Furniture
"Company, the Ontario Binder Twine Agency, the Consolidated Plate Glass
"Company, the London Bolt and Hinge Works, and the Western Alberta
"Railroad, for the term of five years from my decease equally between my
"Sisters, Sarah Ann Field, Caroline Fishleigh, Elizabeth Mary Ferguson, Eva
"Puddicombe (wife of Robert Puddicombe) and Rhoda Hobbs, that is to say,
"my said income is to be divided into five equal portions one of which is to
"go to each of my Sisters aforesaid for the said term of five years.

"At the end of the said term of five years I direct and desire my Executors
"to pay to Miss Lorna C. Gibbons, Miss Helen Gibbons, George S. Gibbons 30
"and Miss Marjorie Gibbons, children of Mr. George C. Gibbons, the sum of
"\$2,500.00 each (Two thousand five hundred dollars each).

"And I direct my Executors at the end of the said five years to hand over
"all my estate then in their hands to the London & Western Trusts Company
"(Limited), to be invested by the said Company under the direction during
"their lifetime of my said Executors and the income from my said estate to be
"paid to my said five sisters hereinbefore named share and share alike as long
"as they all continue to live and on the decease of any of them leaving lawful
"issue then I direct that the said Trusts Company shall expend the income
"which the parent would have received if living for the benefit of the children 40

“of any of my Sisters so dying leaving lawful issue. But in case of the death
 “of any of my said Sisters without leaving lawful issue then the income of my
 “estate shall be divided among the residue share and share alike it being
 “understood in all cases during the first five years or later that the children
 “of any of my sisters dying shall get the share of the income which the parent
 “would have received if living.

10 “And I desire that the said London & Western Trusts Company
 “(Limited) shall so continue to hold my said estate until the death of all of
 “my said Sisters and until the youngest child born to any of them shall have
 “attained the age of twenty-one years when I direct the said London &
 “Western Trusts Company to distribute my said estate in as many shares as
 “there were Sisters who died leaving lawful issue and that my said estate shall
 “be divided so that the children of each of my said deceased Sisters shall get
 “one share.

20 “The intention of my Will being to provide an income for each of my said
 “Sisters during their life equally and for their children after their decease so
 “that the income of the children of each Sister shall be the income which their
 “mother would have received if living. But when my Sisters have all
 “departed this life then that their children shall continue to receive the income
 “which they would have received if living until the youngest of their children
 “shall have attained the age of twenty-one years when there shall be a division
 “of my estate as aforesaid the children of each Sister receiving one share of the
 “estate.”

6. These proceedings were commenced by a motion on behalf p. 3.
 of the Executors of the estate of the said Thomas Saunders Hobbs for
 the opinion and direction of the Court respecting the construction of
 the said Will and Codicils and the distribution of the Testator's
 property thereunder and for the determination of the following
 among other questions arising from the said Will :—

30 “3. Is Harold Fishleigh, who is a grand-nephew of the Testator and a p. 4, ll. 22-
 “grandson and the only surviving issue of Caroline Fishleigh, sister of the 28.
 “Testator named in paragraph Three of the said Will, entitled to a share of
 “the income payable under the terms of the said Will?

“4. Under the terms of the said Will into how many shares is the Corpus
 “of the residuary Estate to be divided upon final distribution thereof and who
 “are the persons entitled to such shares?”

7. At the hearing before Mr. Justice Middleton, on the 14th p. 16, ll. 20-
 day of January, 1928, the children of the Testator's brother, 28.
 W. R. Hobbs, were not represented and the learned Judge directed
 40 that notice of the motion be served upon them. Notice of the motion
 was accordingly served on the said children and they appeared by

Counsel on the adjourned hearing of the motion on the 3rd day of February, A.D. 1928.

p. 12, l. 26.
p. 13, l. 19.

8. Mr. Justice Middleton held as to the income :—

(a) that in the clause of the Will defining the number of shares into which the income is to be divided the word "issue" includes grandchildren and as Caroline Fishleigh died leaving a grandson, the income is to be divided into five shares;

(b) that in the clause of the Will bequeathing the shares so defined the word "children" does not include grandchildren and that there was therefore no effectual gift of the share which would have gone to children of Caroline Fishleigh if they had survived their mother and the Testator and that as to that share of the income there is an intestacy. 10

p. 15, ll. 9-22.

As to the corpus of the estate the learned Judge held :—

(a) That in the clause of the Will defining the number of shares into which the corpus is to be divided the word "issue" includes grandchildren and that the corpus is therefore to be divided into three shares;

(b) that in the clause of the Will bequeathing the shares of the corpus so defined, the word "children" does not include grandchildren and that there was therefore no effectual gift of the share of the corpus which would have gone to the children of Caroline Fishleigh if they had survived their mother and the Testator and that as to that share of the corpus there is an intestacy. 20

The learned Judge held that the corpus is to be divided into three parts, one of which is to go to the children of the Testator's sister, Eva Puddicombe, one to the children of the Testator's sister, Sarah Ann Field, and the other as on an intestacy, and he held that the shares of the children of Eva Puddicombe and Sarah Ann Field became vested upon the death of the Testator the enjoyment being postponed for the period named in the Will. 30

p. 4.

9. The other questions, numbered 1, 2 and 5, submitted to Mr. Justice Middleton by the Executors, were answered by him in a manner satisfactory to all parties and are not now in question.

p. 18.
p. 19.

10. The Appellant, Harold Ferguson Fishleigh, appealed from the said judgment of Mr. Justice Middleton. The Respondents, Ewart Field, Eva Field Harvey, Elizabeth M. Ferguson and Rhoda Hobbs also appealed from the said judgment. In neither of these

appeals was there any appeal from that part of the judgment of Mr. Justice Middleton which held that the shares of the children of Eva Puddicombe and Sarah Ann Field in the corpus of the estate became vested on the death of the Testator.

11. The appeal was argued before the First Divisonal Court of the Appellate Division of the Supreme Court of Ontario, consisting of the Chief Justice of Ontario, Mr. Justice Magee, Mr. Justice Hodgins and the late Mr. Justice Ferguson. The Appellant Harold F. Fishleigh contended that on a true construction of the Will there
 10 was no intestacy as to any part of the income or the capital of the Testator's residuary estate and that he was entitled to the share of the income and the share of the corpus which would have gone to his father if now living. These Respondents contended that on a true construction of the Will there was no intestacy as to any part of the income or the capital on the ground that the word "issue" as used in the Will meant children of the first generation only and that the income, therefore, should be divided into four shares among the three surviving sisters and the Respondents, Ewart Field and Eva
 20 Field Harvey as children of the Testator's deceased sister Sarah Ann Field; and that the corpus of the residuary estate, when the period of distribution arrives, should be divided into two shares, one to the children of Sarah Ann Field and the other to the children of Eva Puddicombe. Counsel for the children of W. R. Hobbs contended that the judgment of Mr. Justice Middleton was right and should be affirmed.

12. The Chief Justice of Ontario, in his Reasons for Judgment, in which Mr. Justice Hodgins concurred, agreed with the Reasons for Judgment of Mr. Justice Middleton as to the number of shares into which the income should be divided, and as to the disposition
 30 of each of such shares and held that there was an intestacy as to a one-fifth share of the income of the estate. As to the corpus of the residuary estate the learned Chief Justice held that until the death of all the sisters and until the youngest child born to any of them attains the age of twenty-one years there is no vesting of any share in any child who is under that age and that until that time the Court is unable to determine who is entitled to share in the corpus.

13. Mr. Justice Magee in his Reasons for Judgment concurred with the learned Chief Justice as to the disposition of the income.
 40 As to the corpus of the residuary estate, the learned Justice held that no share therein vests until the death of the last surviving sister; and that if any of the sisters now living should survive her children

p. 20.

p. 22, ll. 21-45.

p. 22, l. 45.

p. 23, l. 8.

p. 23.

p. 29, ll. 12-13.

p. 29, ll. 18-24.

and leave only grandchildren then as to that share there will be an intestacy as in the case of the share set aside for the children of Caroline Fishleigh.

14. Mr. Justice Ferguson, died before judgment was delivered.

15. Harold Ferguson Fishleigh, the Appellant in the first mentioned appeal, contends that he is entitled to the share of the income which would have gone to his father if now living, and to one share of the corpus of the residuary estate on the ground that the word "children" as used in the Will includes grandchildren.

16. These Respondents respectfully submit that the contentions of the Appellant in the First Appeal cannot be sustained and that the said Appellant does not take a share in either the income or the corpus under the Will. 10

The provisions of the Will relating to the disposition of the income are as follows :—

p. 33, ll. 5-20.

(a) after authorizing his executors to continue any business in which the Testator is engaged at the time of his death for a period not exceeding five years,

"to apply the net income received from my said business investments
" for the term of five years from my decease equally between 20
"my sisters Sarah Ann Field, Caroline Fishleigh, Elizabeth Mary
"Ferguson, Eva Puddicombe (wife of Robert Puddicombe) and Rhoda
"Hobbs, that is to say, my said income is to be divided into five equal
"portions one of which is to go to each of my sisters aforesaid for the said
"term of five years."

p. 33, ll. 25-33.

(b) that on the decease of any of the Testator's sisters leaving lawful issue,

"the said Trusts Company shall expend the income which the parent 30
"would have received if living for the benefit of the children of any of my
"Sisters so dying leaving lawful issue."

p. 33, ll. 33-38.

(c) "But in case of the death of any of my said Sisters without
"leaving lawful issue then the income of my estate shall be divided among
"the residue share and share alike it being understood in all cases during the
"first five years or later that the children of any of my sisters dying shall get
"the share of the income which the parent would have received if living."

(d) the Will further provides as to income

p. 33, l. 46.

"The intention of my Will being to provide an income for each of
"my said sisters during their life equally and for their children after their

p. 34, l. 5.

“decease so that the income of the children of each Sister shall be the income which their mother would have received if living. But when my Sisters have all departed this life then that their children shall continue to receive the income which they would have received if living until the youngest of their children shall have attained the age of twenty-one years when there shall be a division of my estate as aforesaid the children of each Sister receiving one share of the estate.”

The provisions of the Will relating to the disposition of the corpus are as follows :—

10 “And I desire that the said London & Western Trusts Company
“(Limited) shall so continue to hold my said estate until the death of all of
“my said Sisters and until the youngest child born to any of them shall have
“attained the age of twenty-one years when I direct the said London &
“Western Trusts Company to distribute my said estate in as many shares as
“there were Sisters who died leaving lawful issue and that my said estate shall
“be divided so that the children of each of my said deceased Sisters shall get
“one share.

p. 33, l. 39.
p. 34, l. 6.

20 “The intention of my Will being to provide an income for each of my
“said Sisters during their life equally and for their children after their decease
“so that the income of the children of each Sister shall be the income which
“their mother would have received if living. But when my Sisters have all
“departed this life then that their children shall continue to receive the
“income which they would have received if living until the youngest of their
“children shall have attained the age of twenty-one years when there shall be
“a division of my estate as aforesaid the children of each Sister receiving one
“share of the estate.”

30 It is respectfully submitted that there is nothing in the wording
of the Will or in the context to displace the primary sense of the
word “children” as used, meaning issue of the first generation only
and that that meaning of the word should be adhered to. These
Respondents submit that the Appellant Harold Ferguson Fishleigh
not being the child of a sister of the Testator does not take a share of
the income or a share of the corpus. (*re Kirk* (1885) 52 L.T.R. 346;
re Atkinson Pybus v. Boyd (1918) 2 Ch. 139).

17. These Respondents further respectfully submit that the
Codicils to the Will do not in any way alter the bequests contained
in the original Will in favour of the Testator’s Sisters and their
children. The only relevant provisions of the Codicils are those
by which the Testator expressly confirms his said Will, and there-
fore the rights of the Appellant Fishleigh, if any, are no greater by
40 reason of the Codicils than they were under the original Will.

pp. 34 and 35.

Stillwell vs. Mellersh 20 L.J. Ch. 356; in *re Park, Botts vs. Chester* (1910) 2 Ch. 323.

18. It is submitted that the appeal of the Appellant Fishleigh should be dismissed for the following among other

REASONS.

- (a) Because there is no gift to the Appellant in the Will;
- (b) Because the words "child" and "children" as used in the clauses of the Will bequeathing the shares of the income and of the corpus should be construed as including children only;
- (c) Because the gifts to the sisters of the Testator and to the children of sisters of the Testator are clear and unambiguous; 10
- (d) Because the confirmation of his Will by the Testator in the Codicils does not in any way change the provisions of the Will and could not have the effect of enlarging the word "children" used in the Will so as to include grandchildren;
- (e) Because the judgment of Mr. Justice Middleton and the judgment of the First Divisional Court insofar as they relate to the issues on the Appeal of the Appellant Fishleigh are correct and should not be reversed. 20

19. These Appellants in the second Appeal respectfully submit that the learned Judges of the First Divisional Court erred in holding that there is an intestacy as to a one-fifth share of the income. It is submitted that it is clear from the provisions of the Will and of the Codicils executed in 1927, that the Testator intended to dispose of his whole estate by his Will. It is further submitted that the word "issue" as used in the following paragraph of the Will:— 30

"But in case of the death of any of my said Sisters without leaving lawful issue then the income of my estate shall be divided among the residue share and share alike, it being understood in all cases during the first five years or later that the children of any of my Sisters dying shall get the share of the income which the parent would have received if living."

is synonymous with the word "children" and does not include grandchildren. (*In re Birks Kenyon v. Birks* (1900), 1 Ch. 417).

p. 32.

p. 34.

p. 35.

p. 33, ll. 33-38.

20. These Appellants in the second Appeal further respectfully submit that the word "issue" as used in the following provision of the Will :—

"I direct the said London and Western Trusts Company to distribute my
 "said estate in as many shares as there were Sisters who died leaving lawful
 "issue and that my said estate shall be divided so that the children of each of
 "my said deceased Sisters shall get one share".

is synonymous with the word "children" and that on the true construction of the Will the corpus of the estate is to be divided into
 10 only as many shares as there are sisters who at the time for distribution have died leaving children.

21. These Appellants in the second Appeal further respectfully submit that the learned Judge of the First Divisional Court erred in declaring that the shares in the corpus of the Testator's residuary estate have not vested and will not vest until the time for distribution.

It is submitted that upon the true construction of the said Will the gift in remainder to the children vested at the death of the
 20 Testator under the rule that although the only gift to the children is found in the direction to pay or divide, as the postponement of the enjoyment is merely for the purpose of letting in the life estate of the sisters, the gift in remainder vested on the death of the Testator. *Re Bennett's Trust*, 3 K and J. 280; *Patcham v. Gregory*, 4 Hare 396; *Adams vs. Roberts*, 35 Beav. 658 at 681; *re Courturier* (1907) 1 Ch. 470.

In the alternative, it is submitted on behalf of the Appellants, Ewart Field and Eva Field Harvey, that the true construction of the intention of the Testator as to the distribution of the corpus of the estate, as expressed in the Will, is that on the death of the Testator a share of the residuary estate became vested in them, and it is
 30 submitted on behalf of the Appellants Winifred Kingsmill and Mary Edwards, that on the death of the Testator a share of the residuary estate became vested in them subject to be divested in case their mother dies without leaving any child her surviving, and that the learned Judges of the Second Appellate Division erred in holding that the share of any of these Appellants was not vested until the death of the last surviving sister.

22. These Respondents submit that the judgment of the First Divisional Court is wrong and should be reversed in so far as it
 40 holds :—

- (a) that there is an intestacy as to the one-fifth share of the income to which Caroline Fishleigh or her children would have been entitled had she or they survived the Testator.
- (b) that the shares in the corpus of the Testator's residuary estate have not vested and will not vest until the time for distribution,

and submit that upon a true construction of the said Will it should be held :—

- (a) that the income from the residuary estate should be divided into four shares and be paid to Elizabeth M. Ferguson, 10 Rhoda Hobbs, Eva Puddicombe, and to Ewart Field and Eva Field Harvey, children of the late Sarah Ann Field;
- (b) that the corpus of the estate should be divided at the time for distribution fixed by the Will into two shares between the children of Sarah Ann Field and the children of Eva Puddicombe;
- (c) that the children of Sarah Ann Field and of Eva Puddicombe who were living at the time of the death of the Testator, have a vested interest in the corpus of the residuary estate; 20
- (d) that in any event Ewart Field and Eva Field Harvey have a vested interest in the corpus of the residuary estate as children of Sarah Ann Field, a deceased sister of the Testator,

for the following among other

REASONS.

- (1) Because the word "issue" as used in the clauses of the Will defining the number of shares into which the 30 income and the corpus are to be divided should be construed as including "children" only.
- (2) Because the words "child" and "children" as used in the clauses of the Will bequeathing the shares so defined should be construed as including "children" only.

- 10
- (3) Because the said Will should, if possible, be so construed as to avoid an intestacy and on the above construction the Will disposes of the Testator's entire estate among the children of his sisters.
 - (4) Because, as to vesting, the Testator's intention as expressed in the Will clearly was that the children of his sisters were to take a vested interest in the corpus of the estate as at the date of his death.
 - (5) Because the judgment of Mr. Justice Middleton as to vesting is correct and should not be reversed.

N. W. ROWELL.

DYCE W. SAUNDERS.

I. F. HELLMUTH.

In the Privy Council.

**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

HAROLD FERGUSON FISHLEIGH - Appellant

— AND —

**THE LONDON & 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
Puddicombe, 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.**

AND BETWEEN

**EWART FIELD, Eva Field Harvey, Elizabeth M.
Ferguson, Rhoda Hobbs, Eva Puddicombe, Winifred
Kingsmill and Mary Edwards - Appellants**

— AND —

**HAROLD FERGUSON FISHLEIGH, The London &
Western Trusts Company Limited, Samuel Francis Wood
and John Winer Wardrope, Executors of the Will and
Codicils of Thomas Saunders Hobbs, deceased, 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,
Consolidated Appeals.**

C A S E

— FOR —

**EWART FIELD, EVA FIELD HARVEY, WINIFRED
KINGSMILL and MARY EDWARDS, Respondents in
the First Appeal and Appellants in the Second Appeal.**

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