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5, 1952

No. 29 of 1950.

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF BERMUDA

UNIVERSITY OF LONDON
W.C.1.

20 JUL 1953

INSTITUTE OF ADVANCED
LEGAL STUDIES

IN THE MATTER of the Estate of JAMES NELMES LAMBE, deceased

BETWEEN

HERBERT LAMBE WILLIAMS (Defendant) - - - Appellant

AND

EDGAR RODERIC WILLIAMS (Plaintiff) - - - Respondent.

RECORD OF PROCEEDINGS

CULROSS & TRELAWNY,

65 DUKE STREET,

GROSVENOR SQUARE,

LONDON, W.1,

Solicitors for the Appellant.

THEODORE GODDARD & CO., AND DEACONS & PRITCHARDS,

5 NEW COURT,

LINCOLN'S INN,

LONDON, W.C.2,

Solicitors for the Respondent.

ON APPEAL
FROM THE SUPREME COURT OF BERMUDA.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE deceased.

BETWEEN

HERBERT LAMBE WILLIAMS (Defendant) *Appellant*

AND

EDGAR RODERIC WILLIAMS (Plaintiff) *Respondent.*

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

NO.	DESCRIPTION OF DOCUMENT	DATE	PAGE
<i>IN THE SUPREME COURT OF BERMUDA.</i>			
1	Originating Summons	21st October 1949	1
2	Affidavit of Plaintiff, Edgar Roderic Williams	15th October 1949	2
2 (A)	Copy Will of James Nelmes Lambe	30th September 1927	4
2 (B)	Copy Will of Thomas Youghlet Lambe	2nd May 1936	7
3	Judge's Notes	15th December 1949	12
4	Judgment	30th January 1950	13
5	Order granting Leave to Appeal	28th February 1950	14
6	Judge's Notes re Order	28th February 1950	15
7	Judge's Notes and Order re Summons to admit fresh evidence	31st May 1950	16
<i>IN THE PRIVY COUNCIL.</i>			
8	Order on Petition to admit Further Evidence	26th February 1951	18
8 (A)	Copy Deed of Partnership dated 21st July 1924 with Affidavit of Rupert Carlyle Hollis-Hallett	2nd September 1950	19
8 (B)	Certificate of Death of John Emilio Lightbourn on	2nd April 1929	23
8 (E)	Further Affidavit of Rupert Carlyle Hollis-Hallett	28th October 1950	24
8 (F)	Copy Balance Sheet of J. E. Lightbourn & Co. as at	31st July 1927	25

**DOCUMENTS TRANSMITTED TO THE PRIVY COUNCIL BUT
NOT PRINTED**

DESCRIPTION OF DOCUMENT	DATE
Notices of Appointment to hear Originating Summons	3rd December 1949
Affidavits of Service of Originating Summons	13th December 1949
Memorandums of Appearances	28th October 1949
Judge's Note	30th January 1950
Notice of intention to apply for Leave to Appeal	17th February 1950
Notice of Motion for Conditional Leave to Appeal	17th February 1950
Appeal Bond	17th March 1950
Copy draft of Letters of Administration with Will annexed of John Emilio Lightbourn	—
Summons to admit fresh evidence	—
Affidavit in support of Summons to admit fresh evidence	26th May 1950
Copy Heads of Mortgage	30th June 1930
Profit and Loss Account of J. E. Lightbourn & Co. as at	31st July 1927

In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT OF BERMUDA.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE
deceased.

BETWEEN

HERBERT LAMBE WILLIAMS (Defendant) . . . *Appellant*

AND

10 EDGAR RODERIC WILLIAMS (Plaintiff) . . . *Respondent.*

RECORD OF PROCEEDINGS

No. 1.

ORIGINATING SUMMONS.

IN THE SUPREME COURT OF BERMUDA.
Probate Division.

No. 1.
Originating
Summons,
21st
October
1949.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE,
Deceased.

LET Herbert Lambe Williams of Pembroke Parish in the Islands of
Bermuda Dorothy Vivien Williams of Pembroke Parish aforesaid on her
20 own behalf and as guardian of the Estate of Harold Allan Williams, a
minor, and Joseph Donald Shanks of Pembroke Parish aforesaid within
Eight days after service of this Summons on them, inclusive of the day of
such service, cause an Appearance to be entered for them to this Summons,
which is issued upon the application of Edgar Roderic Williams of Pembroke
Parish aforesaid who claims to be the executor and a beneficiary of the
will of James Nelmes Lambe deceased for the determination of the
following questions, viz. :—

30 1. Did Clause Three of the said will give the said Edgar
Roderic Williams a participation in the capital of the firm of
J. E. Lightbourn and Company in the proportion that £5,000 bore
to the total capital of the partnership firm at the death of the
said James Nelmes Lambe or was this gift a legacy in the sum of
£5,000 to be paid from the capital account of that firm ?

Dated the 21st day of October 1949.

(Signed) C. BROOKE FRANCIS,
Chief Justice.

No. 2.
Affidavit of
Plaintiff,
Edgar
Roderic
Williams,
15th
October
1949.

No. 2.

AFFIDAVIT of Plaintiff, Edgar Roderic Williams.

I, EDGAR RODERIC WILLIAMS, of Pembroke Parish in the Islands of Bermuda, make oath and say as follows :—

1. I am the sole surviving executor of the will of James Nelmes Lambe deceased, which said will bears date 30th September, 1927.

2. The said James Nelmes Lambe by the third clause of his said will made the following bequest, namely :

“ 3. I give and bequeath to my nephew the said Edgar Roderic Williams the sum of £5,000 of the capital I have invested in the partnership business carried on in the said Islands under the firm name of J. E. Lightbourn and Company.” 10

By the fifth clause of his said will the testator made the following bequests :—

“ 5. I give and bequeath all the rest and residue of my personal estate unto and equally between my brother, the said Thomas Youghlet Lambe, my nephew, Edgar Roderic Williams and my great-nephew, Herbert Lambe Williams and Joseph Donald Shanks.”

3. The testator died on the 25th March 1936 and his said will was proved by this deponent, the sole surviving executor thereof. 20

4. At the time of the testator's death, the capital of the firm of J. E. Lightbourn and Company (an unincorporated concern) was totally owned by the said James Nelmes Lambe and amounted to £20,000. At this time the business was incapable of meeting its liabilities and consequently it was not wound up but was and has been ever since operated by this deponent as a going concern.

5. One of the beneficiaries under the residuary clause Thomas Youghlet Lambe died on the 23rd of June 1944, the other beneficiaries are still living. 30

The late Thomas Youghlet Lambe by his will dated the 2nd day of May 1936 made no specific bequest of any shares he owned in J. E. Lightbourn and Company by reason of the residuary clause of the will of the late James Nelmes Lambe but by clause nine of his said will he made the following bequest :—

“ 9. I give and bequeath all the rest and residue of my personal estate unto the said Edgar Roderic Williams and Herbert Alan Williams in the following shares : To the said Edgar Roderic Williams three fifth parts or shares of the said personal estate Provided Always that if the said Edgar Roderic Williams shall die in my lifetime then I give and bequeath the said three fifth parts or shares of the said personal estate unto and equally between all his children living at the time of my death and if only one such child to him or her absolutely And to the said Herbert Alan Williams the remaining two fifth parts or shares of the said personal estate Provided Always that if the said Herbert Alan Williams 40

shall die in my lifetime then I give and bequeath the said two fifth parts or shares of the said personal estate unto and equally between all his children living at the time of my death and if only one such child to him or her absolutely.”

At the time of the death of the said Thomas Youghlet Lambe on the 23rd June 1944 the said Herbert Alan Williams was alive.

6. In 1939 the business was advertised for sale in September of that year, but, on the outbreak of war the sale was cancelled and it was agreed that the executor should continue to manage the business for the Estate of James Nelmes Lambe in respect of which services he has been paid a salary.

7. In 1945 an agreement was made between this deponent and Herbert Alan Williams, Herbert Lambe Williams and Joseph Donald Shanks to wind up the business and distribute the proceeds as of the 30th June 1945. In consequence of this agreement Mr. R. L. Patterson of the Bank of N. T. Butterfield and Son Limited supervised the taking of stock and signed all the stock sheets which were to be accepted by all as setting forth the proper value thereof. A balance sheet was made up as of the 30th June 1945 showing the net worth of J. E. Lightbourn and Company as £112,021. 0. 9½. Before the above-mentioned agreement could be consummated the said Herbert Alan Williams died on the 14th day of August 1945 intestate leaving his widow Dorothy Vivien Williams and two children the said Herbert Lambe Williams and Harold Allan Williams, the latter being then and still is a minor.

8. This deponent has continued to manage the business of J. E. Lightbourn and Company for and on behalf of the beneficiaries entitled thereto up until the date hereof. A Balance Sheet was made of the assets of the business as of the 30th June 1949 which showed a net worth of £161,765.18.3½.

9. This deponent is advised therefore that the present position is, that the beneficiaries entitled to receive compensation with respect to shares in the business of J. E. Lightbourn and Company are the said Edgar Roderic Williams, Dorothy Vivien Williams, Herbert Lambe Williams, Harold Allan Williams and Joseph Donald Shanks, all of whom are *sui juris* with the exception of the said Harold Allan Williams.

10. This deponent is desirous, and he is informed that the other beneficiaries are likewise desirous of determining the shares to which each is entitled in the said business of J. E. Lightbourn and Company.

11. This deponent is advised and verily believes that two interpretations are possible under the terms of the third clause of the said will of James Nelmes Lambe deceased quoted in paragraph 2 hereof, namely : (1) That the gift of £5,000 of the capital of this firm given by clause 3 quoted above was a gift of a portion of the capital determined by the proportion that £5,000 bears to the total capital at the time of the testator's death and is to be construed therefore as the gift of one quarter share in the business leaving three-quarters to be distributed under the residuary clause 5 : (2) That the gift of £5,000 was a legacy of that amount

No. 2.
Affidavit of
Plaintiff,
Edgar
Roderic
Williams,
15th
October
1949,
continued.

No. 2.
Affidavit of
Plaintiff,
Edgar
Roderic
Williams,
15th
October
1949,
continued.

to be paid out of the capital funds of the business and that the balance after the deduction of this amount was to be distributed to the beneficiaries under the said residuary clause 5.

12. This deponent is advised and verily believes that if the first interpretation mentioned above is correct that the shares in the said business belong to the persons named in the following proportions, viz. :

- | | | | | | |
|-----------------------------|----|---|---|-----------------|----|
| (1) Edgar Roderic Williams | .. | $\frac{1}{4} + \frac{3}{16} + \frac{9}{80}$ | = | $\frac{44}{80}$ | |
| (2) Dorothy Vivien Williams | .. | $\frac{2}{80}$ | = | $\frac{2}{80}$ | |
| (3) Herbert Lambe Williams | .. | $\frac{3}{16} + \frac{2}{80}$ | = | $\frac{17}{80}$ | |
| (4) Harold Allan Williams | .. | $\frac{2}{80}$ | = | $\frac{2}{80}$ | 10 |
| (5) Joseph Donald Shanks | .. | $\frac{3}{16}$ | = | $\frac{15}{80}$ | |

13. This deponent is advised and verily believes that if the second interpretation mentioned above is correct that the shares in the said business belong to the persons named in the following proportions, viz. :

- | | | | | |
|-----------------------------|----|------------------------------|---|-----------------|
| (1) Edgar Roderic Williams | .. | $\frac{1}{4} + \frac{3}{20}$ | = | $\frac{24}{60}$ |
| (2) Dorothy Vivien Williams | .. | $\frac{2}{60}$ | = | $\frac{2}{60}$ |
| (3) Herbert Lambe Williams | .. | $\frac{1}{4} + \frac{2}{60}$ | = | $\frac{17}{60}$ |
| (4) Harold Allan Williams | .. | $\frac{2}{60}$ | = | $\frac{2}{60}$ |
| (5) Joseph Donald Shanks | .. | $\frac{1}{4}$ | = | $\frac{15}{60}$ |

14. This deponent has caused certified copies of the wills of James 20
Nelmes Lambe deceased and Thomas Youghlet Lambe deceased to be
filed herewith and marked " A " and " B " respectively and initialled by him.

Sworn at the City of Hamilton in the
Islands of Bermuda this 15th day of } E. R. WILLIAMS
October, 1949

Before me :

(Signed) M. C. BELL,
Acting Registrar,
Supreme Court of Bermuda.

No. 2 (A).
Certified
Copy Will
of James
Nelmes
Lambe,
30th
September
1927.

No. 2 (A).

30

CERTIFIED COPY WILL of James Nelmes Lambe.

" A " ERW.

IN THE SUPREME COURT OF BERMUDA.

IN THE ESTATE of JAMES NELMES LAMBE, Deceased.

EXEMPLIFICATION OF PROBATE.

(L.S.) BE IT KNOWN, that upon search being made in the Registry of the Supreme Court of Bermuda, at Hamilton in the Islands of Bermuda, it appears that, on the Twentieth day of August, 1936, the last will and testament of JAMES NELMES LAMBE, deceased, who died on the Twenty-fifth 40
day of March 1936, at Paget Parish and who at the time of his death had a fixed place of abode in Pembroke Parish was proved by EDGAR

RODERIC WILLIAMS, the sole surviving executor named in the said Will, AND which probate now remain of record in the Registry aforesaid.

No. 2 (A).
Certified
Copy Will
of James
Nelmes
Lambe,
30th
September
1927,
continued.

The true tenor of the said will and probate thereof marked " A " and " B " respectively and initialled by me appears on the three pages annexed hereto.

IN FAITH AND TESTIMONY WHEREOF these letters testimonial are issued.

10 GIVEN at the City of Hamilton in the Islands of Bermuda, as to the time of the aforesaid search, and the sealing of these presents under the Seal of the said Court this Fourteenth day of October, 1949.

(Sgd.) M. C. BELL,
Acting Registrar, Supreme Court of Bermuda.

(Sgd.) C. BROOKE FRANCIS,
Chief Justice, Supreme Court of Bermuda.

" B " MCB.

IN THE SUPREME COURT OF BERMUDA.

(L.S.)

20 R. C. Hollis-Hallett BE IT KNOWN that on the date hereof the last Will which is hereunto annexed of JAMES NELMES LAMBE, late of Pembroke Parish in the Islands of Bermuda, deceased, who died on the 25th day of March, 1936, at Paget Parish in the said Islands, was duly admitted to probate in this Court and that the Administration of the personal estate of the said deceased is hereby granted by this Court to EDGAR RODERIC WILLIAMS, the sole surviving executor named in the said Will, he having been duly sworn, as appears by his affidavit which is hereunto annexed, John Emilio Lightbourn, the other executor named in the said Will, having predeceased the said deceased.

30 Given under my hand and the Seal of the Supreme Court of Bermuda this 20th day of August, 1936.

IN THE SUPREME COURT OF BERMUDA.

IN THE ESTATE of JAMES NELMES LAMBE, deceased.

40 I, EDGAR RODERIC WILLIAMS of Pembroke Parish in the Islands of Bermuda, Merchant, make oath and say that I believe the paper writing hereto annexed and marked " A " and initialled by me to contain the true and original last will and testament of James Nelmes Lambe of Pembroke Parish aforesaid, deceased, who died on the 25th day of March, 1936 at Paget Parish in the said Islands at the King Edward VII Memorial Hospital; that I am a nephew of the said deceased and the sole remaining Executor named in the said will, John Emilio Lightbourn the other Executor named in the said will having predeceased the said deceased; that I will administer according to law all the personal estate

No. 2 (A).
 Certified
 Copy Will
 of James
 Nelmes
 Lambe,
 30th
 September
 1927,
continued.

of the said deceased; that I will exhibit a true and perfect inventory of the said estate; and render a just and true account thereof whenever required by law so to do; and that the gross value of the said estate amounts to Thirty-six thousand three hundred and forty-eight pounds, eighteen shillings and threepence or thereabouts to the best of my knowledge, information and belief.

Sworn at the City of Hamilton in the
 Islands of Bermuda this 19th day of }
 August, 1936. } E. R. WILLIAMS

Before me :

10

THOMAS N. DILL,

Commissioner for taking affidavits in the Supreme Court of Bermuda.

“ A ” MCB. E.R.W.

I, JAMES NELMES LAMBE of Pembroke Parish in the Islands of Bermuda Merchant do hereby revoke all former wills and testamentary dispositions heretofore made by me and declare this to be my last will and testament.

1. I direct all my just debts funeral charges and testamentary expenses to be paid and satisfied by my Executors hereinafter mentioned as soon as conveniently may be after my decease. 20

2. I appoint my nephew Edgar Roderic Williams and John Emilio Lightbourn the Executors of this my will.

3. I give and bequeath to my nephew the said Edgar Roderic Williams the sum of Five thousand pounds of the capital I have invested in the partnership business carried on in the said Islands under the firm name of J. E. Lightbourn & Company.

4. I give and bequeath the following legacies :—

To my sister Florence Isidora Lambe the sum of Two thousand pounds ;

To my sister Amanda Jane Dickinson Williams the sum of 30
 Two thousand pounds ;

To my brother Thomas Youghlet Lambe the sum of Five thousand pounds ;

To my nephew Herbert Allan Williams the sum of Three thousand pounds and to my niece Dora Ellaline Shanks the sum of Three thousand pounds.

5. I give and bequeath all the rest and residue of my personal estate unto and equally between my brother the said Thomas Youghlet Lambe, my nephew the said Edgar Roderic Williams and my great nephews Herbert Lambe Williams and Joseph Donald Shanks. 40

6. I give and devise all my real estate unto and equally between my two sisters the said Florence Isidora Lambe and Amanda Jane

Dickinson Williams as tenants in common and if only one of them shall be living at the time of my death then I give and devise all my said real estate unto the survivor of my said sisters absolutely IN WITNESS WHEREOF the said James Nelmes Lamb has hereto set his hand to this his will the Thirtieth day of September One thousand nine hundred and twenty-seven.

No. 2 (A).
Certified
Copy Will
of James
Nelmes
Lambe,
30th
September
1927,
continued.

JAMES N. LAMBE

10 Signed by the said James Nelmes Lambe the Testator as and for his last will and testament in the presence of us both being present at the same time who at his request in his presence and in the presence of each other have hereunto subscribed our names as witnesses

J. REGINALD CONYERS

ISABELLE DARRELL.

Recorded : 20th August, 1936.

W. NORMAN PARKER,

Registrar.

No. 2 (B).

CERTIFIED COPY WILL of Thomas Youghlet Lambe.

“ B ” E.R.W.

20 IN THE SUPREME COURT OF BERMUDA.

No. 2 (B).
Certified
Copy Will
of Thomas
Youghlet
Lambe,
2nd May
1936.

IN THE ESTATE of THOMAS YOUGHLET LAMBE, Deceased.

EXEMPLIFICATION OF PROBATE.

(L.S.) BE IT KNOWN, that upon search being made in the Registry of the Supreme Court of Bermuda, at Hamilton in the Islands of Bermuda, it appears that, on the Twenty-eighth day of February, 1945, the last will and testament of THOMAS YOUGHLET LAMBE deceased, who died on the Twenty-third day of June, 1944, at Pembroke Parish and who at the time of his death had a fixed place of abode in Pembroke Parish was
30 proved by EDGAR RODERIC WILLIAMS and JAMES C. WHITE, the Executors respectively named in the said Will, AND which probate now remain of record in the Registry aforesaid.

The true tenor of the said will and probate thereof marked “ A ” and “ B ” respectively and initialled by me appears on the six pages annexed hereto.

No. 2 (B).
Certified
Copy Will
of Thomas
Youghlet
Lambe,
2nd May
1936,
continued.

IN FAITH AND TESTIMONY WHEREOF these letters testimonial
are issued.

GIVEN at the City of Hamilton in the Islands of Bermuda,
as to the time of the aforesaid search, and the sealing of
these presents under the Seal of the said Court this Thirteenth
day of October, 1949.

(Sgd.) M. C. BELL,
Acting Registrar, Supreme Court of Bermuda.

(Sgd.) C. BROOKE FRANCIS,
Chief Justice, Supreme Court of Bermuda. 10

“ B ” MCB.

IN THE SUPREME COURT OF BERMUDA.

(L.S.) BE IT KNOWN that on the date hereof the last
Will which is hereunto annexed of THOMAS
C. Brooke Francis YOUGHLET LAMBE, late of Pembroke Parish,
Chief Justice. in the Islands of Bermuda, deceased, who died on
the 23rd day of June, 1944, at Pembroke Parish
aforesaid, was duly admitted to probate in this
Court and that the Administration of the personal estate of the said
deceased is hereby granted by this Court to EDGAR RODERIC 20
WILLIAMS and JAMES C. WHITE, the Executors respectively named
in the said Will, they having been duly sworn, as appears by their
affidavits which are hereunto annexed.

Given under my hand and the Seal of the Supreme Court
of Bermuda this 28th day of February, 1945.

IN THE SUPREME COURT OF BERMUDA.

IN THE ESTATE of THOMAS YOUGHLET LAMBE, Deceased.

I, EDGAR RODERIC WILLIAMS of Pembroke Parish in the Islands
of Bermuda, Merchant make oath and say that I believe the paper writing
hereto annexed and marked “ A ” and initialled by me to contain the 30
true and original last will and testament of Thomas Youghlet Lambe of
Pembroke Parish in the said Islands who died on the twenty-third day
of June, 1944, at Pembroke Parish aforesaid ; that I am a nephew of
the said deceased and one of the Executors named in the said will ; that
James C. White is the other Executor named in the said will ; that I will
administer according to law all the personal estate of the said deceased ;
that I will exhibit a true and perfect inventory of the said estate and
render a just and true account thereof whenever required by law so to
do ; and that the gross value of the said estate amounts to Ten thousand
pounds or thereabouts to the best of my knowledge, information and 40
belief.

Sworn at the City of Hamilton in the }
Islands of Bermuda this 27th day of } (Sgd.) E. R. WILLIAMS
February, 1945, }

Before me,

(Sgd.) G. C. G. MONTAGU,
Commissioner for taking affidavits in the Supreme Court of Bermuda.

IN THE SUPREME COURT OF BERMUDA.

No. 2 (B).
Certified
Copy Will
of Thomas
Youghlet
Lambe,
2nd May
1936,
continued.

IN THE ESTATE of THOMAS YOUGHLET LAMBE, Deceased.

I, JAMES C. WHITE of Paget Parish in the Islands of Bermuda, Truckman, make oath and say that I believe the paper writing hereto annexed and marked " A " and initialled by me to contain the true and original last will and testament of Thomas Youghlet Lambe of Pembroke Parish in the said Islands who died on the twenty-third day of June, 1944, at Pembroke Parish aforesaid ; that I am a friend of the said deceased and one of the Executors named in the said Will ; that Edgar Roderic Williams is the other Executor named in the said will ; that I will administer according to law all the personal estate of the said deceased ; that I will exhibit a true and perfect inventory of the said estate and render a just and true account thereof whenever required by law so to do ; and that the gross value of the said estate amounts to Ten thousand pounds or thereabouts to the best of my knowledge, information and belief.

Sworn at the City of Hamilton in the Islands of Bermuda this 27th day of February, 1945 } (Sgd.) JAMES C. WHITE

Before me,
(Sgd.) G. C. G. MONTAGU,
Commissioner for taking affidavits in the Supreme Court of Bermuda.

M.C.B.

" J.C.W."

" A "

" E.R.W."

THIS IS THE LAST WILL AND TESTAMENT of me THOMAS YOUGHLET LAMBE of Pembroke Parish in the Islands of Bermuda, Retired Liveryman.

1. I hereby revoke all wills and testamentary dispositions heretofore made by me.
2. I appoint Edgar Roderic Williams of Pembroke Parish aforesaid and James C. White of Paget Parish in the said Islands to be the Executors of this my Will.
3. I direct all my just debts funeral charges and testamentary expenses to be paid and satisfied by my executors as soon as conveniently may be after my decease.
4. I give and bequeath the following legacies :
 - To Beatrice Isabelle Lambe Chapman the sum of £100 ;
 - To Leonard Smith the sum of £100 ;
 - To Audrey Mitchell the sum of £100 ;
 - To the said James C. White the sum of £200 ;
 - To Dora Ellaline Shanks the sum of £200 ;
 - and to Dr. Ernest Edward Brown the sum of £100.

No. 2 (B).
 Certified
 Copy Will
 of Thomas
 Youghlet
 Lambe,
 2nd May
 1936,
continued.

5. I give and bequeath all the furniture and other household effects in and about my present dwelling house unto my nephew the said Edgar Roderic Williams Provided always that if the said Edgar Roderic Williams shall die in my lifetime then I give and bequeath all the said furniture and other household effects unto and equally between all his children living at the time of my death and if only one such child to him or her absolutely.

6. I give and devise All That certain lot or parcel of land situate on Park Road in the City of Hamilton together with the buildings thereon known as The Bulls Head Stables unto my nephew Herbert Alan Williams absolutely Provided always that if the said Herbert Alan Williams shall die in my lifetime then I give and devise the said lot or parcel of land together with the said buildings unto and equally between all his children living at the time of my death as tenants in common and if only one such child to him or her absolutely. 10

7. I give and devise my lot or parcel of land situate on the Serpentine Road in Pembroke Parish aforesaid on which my present dwelling house is erected unto my nephew the said Edgar Roderic Williams absolutely Provided always that if the said Edgar Roderic Williams shall die in my lifetime then I give and devise the said lot or parcel of land together with the said dwelling-house unto and equally between all his children living at the time of my death as tenants in common and if only one such child to him or her absolutely. 20

8. I give and devise All That certain lot or parcel of land in Pembroke Parish aforesaid to the North of the parcel of land devised under the Seventh clause of this my Will and which I purchased from Cecil Hamilton Tucker unto the said Edgar Roderic Williams absolutely Provided always that if the said Edgar Roderic Williams shall die in my lifetime then I give and devise the said lot or parcel of land unto and equally between all his children living at the time of my death as tenants in common and if only one such child to him or her absolutely. 30

9. I give and bequeath all the rest and residue of my personal estate unto the said Edgar Roderic Williams and Herbert Alan Williams in the following shares : To the said Edgar Roderic Williams three fifth parts or shares of the said personal estate Provided always that if the said Edgar Roderic Williams shall die in my lifetime then I give and bequeath the said three fifth parts or share of the said personal estate unto and equally between all his children living at the time of my death and if only one such child to him or her absolutely and to the said Herbert Alan Williams the remaining two fifth parts or shares of the said personal estate Provided always that if the said Herbert Alan Williams shall die in my lifetime then I give and bequeath the said two fifth parts or shares of the said personal estate unto and equally between all his children living at the time of my death and if only one such child to him or her absolutely. 40

10. I give and devise all the rest and residue of my real estate unto the said Edgar Roderic Williams and Herbert Alan Williams absolutely as tenants in common in the following shares : To the said Edgar Roderic Williams three undivided fifth parts or shares of and in the said real estate

Provided always that if the said Edgar Roderic Williams shall die in my lifetime then I give and devise the said three undivided fifth parts or shares of and in the said real estate unto and equally between all his children living at the time of my death as tenants in common and if only one such child to him or her absolutely ; And to the said Herbert Alan Williams the remaining two undivided fifth parts or shares of and in the said real estate Provided always that if the said Herbert Alan Williams shall die in my lifetime then I give and devise the said two undivided fifth parts or shares of and in the said real estate unto and
 10 equally between all his children living at the time of my death as tenants in common and if only one such child to him or her absolutely.

No. 2 (B).
 Certified
 Copy Will
 of Thomas
 Youghlet
 Lambe,
 2nd May
 1936,
continued.

IN WITNESS WHEREOF I the said Thomas Youghlet Lambe have hereunto set my hand to this my Will contained in this and the two preceding sheets of paper the Second day of May One thousand nine hundred and thirty-six.

(Sgd.) THOS. Y. LAMBE.

Signed and acknowledged by the said Thomas Youghlet Lambe the Testator as and for his last will and testament in the presence of us both being present at the same time who at his request in his presence and
 20 in the presence of each other have hereunto subscribed our names as witnesses.

(Sgd.) J. REGINALD CONYERS.

(Sgd.) GRACE M. RYALL.

Recorded : 28th February, 1945.

W. N. PARKER,

Registrar.

No. 3.
Judge's
Notes
(Brooke,
Francis,
C.J.), 15th
December
1949.

No. 3.
JUDGE'S NOTES.

Wednesday, 15th day of December, 1949.

IN THE ESTATE of JAMES NELMES LAMBE, deceased.

Application by Originating Summons for the determination of Clause 3, of the Will of James Nelmes Lambe, deceased.

Mr. J. E. Pearman for Summons.

Mr. W. R. Kempe, for Herbert Lambe Williams.

Adjourned from Chambers into Court.

Pearman opens—and commences his argument.

10

He reads the salient passages in the Williams affidavit and notes that the Will in question was dated 30th September, 1927, and that the testator died 25th March, 1936. Refers to Clause 6, of the affidavit. Sale of the business was not carried out.

He refers to the form in which five legacies are expressed in Clause 3. What was the intention of the testator in his gift of a participation in the sum of £5,000 in the business?

Counsel urges that this means a gift of a participation in the capital in the proportion that £5,000 bore to the total capital.

Kemp for Herbert Lambe Williams.

20

Dorothy Vivien Williams	} Interests coincide.
Harold Allan Williams	
Joseph Donald Shanks	

Refers to Halsbury 2nd Edition, Volume XXXIV at p. 159 and cites functions of Court in the construction of wills. Refers to English and Empire Digest Volume 44 at p. 545, Case 3617. Burrows " Interpretations of Documents " p. 11 Chapter 2. Cites at length.

Counsel urges a view contrary to Pearman.

Pearman in reply—

The cause is before the Court purely on a matter of construction.

30

Judgment reserved.

C. B. F.

No. 4.
JUDGMENT.

No. 4.
Judgment,
30th
January
1950.

IN THE SUPREME COURT OF BERMUDA.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE,
deceased.

Before His Honour SIR BROOKE FRANCIS, Chief Justice.

On the 14th day of December, 1949.

Mr. J. E. Pearman for the Petitioner, Edgar Roderic Williams.

Mr. W. R. Kempe for Herbert Lambe Williams.

— — —

10

JUDGMENT.

This is an application by Originating Summons for the determination of the meaning to be read into Clause three of the will of the late James Nelmes Lambe.

The matter came first in Chambers, but was adjourned into Court for argument, being then heard on the 14th December, 1949. On conclusion judgment was reserved.

The question as presented to the Court was :—

20 “ Did Clause three of the said will give the said Edgar Roderic Williams a participation in the capital of the firm of J. E. Lightbourn and Company in the proportion that £5,000 bore to the total capital of the partnership firm at the death of the said James Nelmes Lambe or was this gift a legacy in the sum of £5,000 to be paid from the capital account of that firm ? ”

It is not necessary to enter into a discussion of the several authorities cited both for and against the view urged by Counsel for the applicant, for they go no further than to recite the principles upon which a Court should proceed in coming to its conclusion in such a matter.

The question here though a curious one is but elemental, and in my judgment is to be answered in the affirmative.

30 I hold that the intention of the testator was that a participation in the capital of the firm of Messrs. J. E. Lightbourn in the proportion that £5,000 bore to the total capital of the partnership firm at the date of his death was to be given to Edgar Roderic Williams.

(Signed) C. BROOKE FRANCIS,
Chief Justice.

30th January, 1950.

No. 5.
Order
granting
Leave to
Appeal,
28th
February
1950.

No. 5.

ORDER granting Leave to Appeal.

IN THE SUPREME COURT OF BERMUDA.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE.

Application by motion for leave to appeal to His Majesty-in-Council, by Herbert Lambe Williams, against Judgment of this Court on 30th January, 1950.

Before His Honour SIR BROOKE FRANCIS, Chief Justice.

On the 28th February, 1950.

Mr. A. D. Spurling for Defendant, Herbert Lambe Williams. 10

Mr. N. B. Dill for E. R. Williams.

ORDER.

UPON HEARING Counsel, leave to appeal to His Majesty-in-Council is granted and IT IS ORDERED that security in the sum of £250 be entered into by the Defendant, Herbert Lambe Williams, to be filed within one month, AND THAT the Record be prepared for despatch to England for printing within three months.

(Sgd.) W. NORMAN PARKER,
Registrar of the Supreme Court
of Bermuda. 20

Dated 28th February, 1950.

Tuesday, 28th February, 1950.

Court at 10.00 a.m.

In re the ESTATE of JAMES NELMES LAMBE.

Application by motion for leave to appeal to His Majesty-in-Council, by Herbert Lambe Williams, against Judgment of this Court on 30th January, 1950.

A. D. Spurling for Defendant, Herbert Lambe Williams.

10 N. B. Dill for E. R. Williams.

On hearing Spurling—He moves for Order of conditional leave to appeal. Refers to Appeals Act, 1911, sections 3, 4 and 5.

Dill in reply—He can offer no opposition.

Order in terms of motion. Security fixed at £250.

The term within which preparation of record under supervision of Registrar, three months.

Printing in London.

Costs attendant in final decision.

20 As an *obiter dictum* before adjournment I say to Counsel that I welcome the knowledge that there is an appeal in this matter for the reason that I think the question is one which might very well have the decision of a higher tribunal.

C. B. F.

No. 7.
 Judge's
 Notes and
 Order re
 Summons
 to Admit
 Fresh
 Evidence
 (Brooke
 Francis,
 C.J.), 31st
 May 1950.

No. 7.

JUDGE'S NOTES AND ORDER re Summons to Admit Fresh Evidence.

Wednesday, 31st May, 1950.

In Chambers 10.15 a.m.

Before The Honourable SIR C. BROOKE FRANCIS, Chief Justice.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE,
 deceased.

HERBERT LAMBE WILLIAMS - . . . Appellant

V.

EDGAR RODERIC WILLIAMS . . . Respondent. 10

Application by Summons on the part of Herbert Lambe Williams for liberty to include further matters in the record of appeal.

Mr. A. D. Spurling for Appellant.

Mr. J. E. Pearman for Respondent.

Spurling opens—

Summons for inclusion of documents.

Reference to section 7, of the Appeal Act, 1911. Application is made under O. 54 R. 3 Supreme Court Rules.

There is no rule for Summons for directions similar to O. 30 of Rules of Supreme Court of England. 20

Position is when matter was before Court we had no knowledge of any partnership deed between Lightbourn and Lambe dated 21st July 1924, Client not familiar with position. He is a young man.

This is a most relevant document as it was in existence when will of Lambe was executed.

Lightbourn died after execution of Lambe's Will. He died 2nd April, 1929.

The original of the Partnership Deed is not available ; no one knows where it is.

Only purpose of other documents (2) (3) (4) and (5) in Summons is to show that Lightbourn was living on 30th September 1927, and that subsequently to that date of death of Lightbourn his widow disposed of his share in the partnership business. 30

As to law in support of this application, Counsel cannot find any authority but refers to Privy Council Practice Safford & Wheeler p. 824. Note (T).

The Application should be made in England.

Refers *Attorney-General and Receiver-General Jersey v. Le Maignon* 1892—Appeal Cases p. 402 is the only authority Counsel has been able to find permitting the inclusion of documentary evidence 40

Secondly, Counsel refers to the apparent omission from the typescript of the Judge's notes of any mention of the amount of capital. The Subject having been referred to and expressed in figures by Counsel addressing more than once in Chambers and subsequently in Court and requests that the Judge's notes be amended so that a reference to the amount of capital may appear therein.

My reply to this is, that I am unable to comply with Counsel's request but add that it is within my recollection that both Counsel referred to the amount of capital and there was not unanimity as to the exact amount. 10 Counsel for Respondent (Edgar Roderic Williams) referred to an amount, I believe, as £20,000 merely in round figures.

At all events I took no note of that particular submission.

Pearman—

As to the last point.

There is no materiality in this. Admits that capital was £20,509 at date of Lambe's death, on 25th March, 1936, or at 31st March, 1936.

As to first point. This is an application for presentation of fresh evidence.

If Appellant desires to present fresh evidence then their only course 20 is to apply to the Board.

This evidence was not before the Court.

Proper course is for agents in London to make application to the Privy Council.

Pearman proceeds further, that the record of the present proceedings should be shut out of the Record.

Spurling—

Stand on original basis—and strongly leans on the *Jersey* case, *Attorney-General and Receiver-General, Jersey v. Le Maignon* A.C. 1892 p. 402.

As to the latter point—Submits that this Summons is part of the 30 Record.

Finally Spurling requests extension of time for preparation in the measure of ten days.

ORDER.

In the absence of authority (I am not satisfied entirely with the case of *Attorney-General and Receiver-General v. Le Maignon*) it is my view that the application in this Summons should not be acceded to. The Appellant has it within his power, through his agent in London, to apply to the Board for permission to introduce the documentary evidence now become available.

40 Application to include as part of the Record, refused.

It is ordered that :

(A) The proceedings of this application be annexed to the Record.

(B) Ten days extra within which to complete Record.

C. B. F.

ORDER on Petition to admit Further Evidence.

AT THE COUNCIL CHAMBER, WHITEHALL

The 26th day of February, 1951

BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCILNo. 8.
Order on
Petition
to admit
Further
Evidence,
26th
February
1951.

WHEREAS by virtue of His Late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee the matter of an Appeal from the Supreme Court of Bermuda in the matter of the Estate of James Nelmes Lambe deceased 10
between Herbert Lambe Williams (Defendant) Appellant and Edgar Roderic Williams (Plaintiff) Respondent (Privy Council Appeal No. 29 of 1950) and likewise the humble Petition of the Appellant setting forth : that the above-mentioned Appeal is pending before Your Majesty in Council : that the question in the case is whether by his Will the above-named James Nelmes Lambe deceased gave to the Respondent a participation in the capital of a certain firm called J. E. Lightbourn & Company in the proportion that £5,000 bore to the total capital of that firm at the date of his death or a sum of £5,000 to be paid from the capital account of that firm : that by the judgment of the Supreme Court of 20
Bermuda delivered on 30th January 1950 it was held that the Will gave to the Respondent a participation in the capital of the firm of Messrs. J. E. Lightbourn in the proportion that £5,000 bore to the total capital of the partnership of the firm at the date of the death of James Nelmes Lambe : that it is alleged by the Appellant that by a Deed of Partnership dated 21st July 1924 and made between John Emilio Lightbourn and James Nelmes Lambe the said Lightbourn and the said Lambe became or were to remain partners in the business of Wine and Spirit Merchants theretofore carried on by them as a partnership at will for the term of 30
ten years from 21st July 1924 if they should so long live under the style or firm of J. E. Lightbourn and Company : that it is alleged by the Appellant that the Deed contained provisions concerning the capital of the firm and divers other provisions regulating the affairs of the firm and material to the proper determination of the question arising in this case : that in particular the Deed contained a provision in the following terms (that is to say) : " The Capital of the Partnership shall consist of the amounts now standing to the credit of the Partners in the books of the Partnership and as may be adjusted from time to time " : that if the existence of the Deed had been known to the Appellant or his advisers evidence of the Deed and of other material facts would have been adduced 40
to the Court below : that the original of the Deed cannot now be found : that the Deed and other material facts are proved or intended to be proved by the following documents namely :—(A) A true copy of the Deed verified by an Affidavit sworn by Rupert Carlyle Hollis-Hallett on 2nd September 1950 (B) A certificate of the death of John Emilio Lightbourn (C) A certified copy of the Grant of Letters of Administration with the Will annexed of John Emilio Lightbourn (D) A certified copy of the Heads of Mortgage dated 30th June 1930 which are registered in the

Book of Mortgages No. 23 at page 304 in the Registry of the Supreme Court of Bermuda (E) A further affidavit sworn by Rupert Carlyle Hollis-Hallett on 28th October 1950 (F) A copy of the balance sheet of the partnership firm as at 31st July 1927 to be verified by the affidavit of some person competent to swear the same : that on 31st May 1950 application was made by the Appellant to the Supreme Court of Bermuda for leave to include as part of the Record in this case documentary evidence relating to the matters aforesaid but the application was refused : And humbly praying that evidence of the Deed of Partnership and of the facts and matters mentioned in the Petition may be adduced in the form of the documents numbered A to F above or in such other documentary form as the Appellant may be advised and that the same be included as part of the Record in this case :

*In the
Privy
Council.*
No. 8.
Order on
Petition
to admit
Further
Evidence,
26th
February
1951,
continued.

THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the Appeal and humble Petition into consideration and having heard Counsel on behalf of the Parties on both sides Their Lordships do hereby order and direct (1) that leave be granted to the Appellant to adduce in the form mentioned in the Prayer of the Petition (or in such other documentary form as the Appellant may be advised) evidence of the Deed of Partnership and of the facts and matters mentioned in the Petition and to include the said evidence in the Record in this Appeal (2) that the costs of this Petition and of adducing and printing the additional evidence be reserved.

Whereof all parties whom it may concern are to take notice and govern themselves accordingly.

J. D. WATERS,

Registrar of the Privy Council.

No. 8 (A).

COPY DEED OF PARTNERSHIP with Affidavit of Rupert Carlyle Hollis-Hallett.

30 The document referred to herein and marked " A " R.C.H.H.

THIS INDENTURE made the 21st day of July One thousand nine hundred and twenty four Between JOHN EMILIO LIGHTBOURN of Hamilton in the Islands of Bermuda and JAMES NELMES LAMBE also of Hamilton in the Islands of Bermuda Witnesseth as follows :

(1) The said Lightbourn and the said Lambe will remain partners in the business of Wine and Spirit Merchants, hitherto carried on by them as a partnership at will, for the term of ten years from the date of these presents, if they shall so long live, under the style or firm of J. E. Lightbourn & Company but subject to the provision for determination hereinafter contained

(2) Either partner shall be at liberty to determine the partnership at the end of five years from the date of these presents by giving to the other partner not less than three calendar months' previous notice in

No. 8 (A).
Copy
Deed of
Partnership
dated
21st July
1924,
with
Affidavit
of Rupert
Carlyle
Hollis-
Hallett,
2nd
September
1950.

No. 8 (A).
 Copy
 Deed of
 Partnership
 dated
 21st July
 1924,
 with
 Affidavit
 of Rupert
 Carlyle
 Hollis-
 Hallett,
 2nd
 September
 1950,
continued.

writing of his intention to do so, or by leaving such notice at the place where the business of the partnership shall for the time being be carried on

(3) The business of the partnership shall be carried on at the present premises on Front Street in the City of Hamilton or at such other place or places as the partners may from time to time decide

(4) Each partner shall have power to sign and endorse cheques in the name of the firm

(5) The Capital of the Partnership shall consist of the amounts now standing to the credit of the Partners in the books of the Partnership and as may be adjusted from time to time

(6) Neither partner shall without the consent in writing of the other :—

(A) Enter into any Bond or become Security for any person or do or knowingly permit to be done anything whereby the Capital or Property of the partnership may be seized, attached or taken in execution

(B) Assign or mortgage his share or interest in the Partnership or introduce or attempt to introduce any other partner into the business of the partnership

(7) Each partner shall keep the partnership effectually indemnified 20
 against his separate debts and liabilities

(8) The partners shall be entitled to the net profits of the business in equal shares and the same shall be divided between the partners immediately after the settlement in manner hereinafter provided of the general annual account

(9) Proper Books of Account shall be kept by the partners and all such entries made therein as are usually entered in books of account kept by persons engaged in a business similar to the business of the partnership. Each partner shall at all times have access to and power to take copies of the same

(10) On the thirty first day of July in each year during the continuance of the partnership a general account shall be taken up to the said thirty first day of July of the assets and liabilities and transactions of the partnership and two original copies of such account shall be made and each copy shall be signed by both partners and after such signature each partner shall keep one copy and shall be bound by such account : provided nevertheless that if any manifest error is found in the account by either partner and signified to the other within three calendar months after signature as aforesaid, such error shall be rectified

(11) In the event of the partnership being dissolved by the death 40
 of either partner, or by either partner giving such notice to determine as aforesaid the other partner shall have power to purchase as from the date of the dissolution and upon the terms hereinafter appearing the share of the partner so dying or giving notice to determine as aforesaid by giving to him or to his legal personal representatives notice in writing to that effect within three calendar months from the date of the dissolution

(12) The price of the purchase of such partner's share under the preceding clause shall be the amount standing to the credit of such partner as shewn by the last signed account as described in clause 10, together

with interest thereon at the rate of six per centum per annum from the date of that account to the date of dissolution, provided however that if another fiscal year should be completed between the date of dissolution and the date upon which the surviving or continuing partner gives written notice of his intention to purchase the share of the other partner, then a general account shall be taken in the usual manner and the share of each partner determined thereby. The purchase price when ascertained shall be paid by five equal annual instalments the first instalment to be paid twelve months after the date of dissolution and the second, third, fourth and fifth instalments to be paid at the end of the succeeding second, third, fourth and fifth years together with interest at the rate of five per cent per annum upon the unpaid portion of the purchase price

(13) In the event of either partner giving notice to determine the partnership, and the other partner purchasing his share as respectively aforesaid, the outgoing partner shall not during the remainder of the term of the partnership carry on or be interested directly or indirectly in any business competing or interfering with the business of the partnership in the Islands of Bermuda

(14) The premises upon which the aforesaid business is carried on is the property of the individual partners and is not partnership property

(15) Any difference which may arise between the partners or their respective representatives with regard to the interpretation of these presents or any part thereof or as to the rights or liabilities of either partner under these presents or with regard to the winding up of or any other matter or thing relating to the partnership or the affairs thereof, shall be referred to the decision of two arbitrators one of such arbitrators to be chosen by one of the partners or his representatives and the other arbitrator to be chosen by the other partner or his representatives and in the event of the said arbitrators failing to agree upon any matter connected with the arbitration, final decision thereon shall be made by an Umpire to be chosen by the two arbitrators

(16) Each Partner shall be credited with interest at the rate of six per cent per annum on the amount standing to the credit of his Capital Account at the commencement of the fiscal year less drawings throughout the year

In witness whereof the parties to these presents have hereto and to one other original copy of this Agreement set their hands the day and year first above written.

Signed by the above-named John Emilio } (Sgd.) JOHN E.
 40 Lightbourn in the presence of } LIGHTBOURN
 (Sgd.) E. STANLEY YOUNG
 „ W. G. WRIGHT

Signed by the above-named James } (Sgd.) JAMES N. LAMBE
 Nelmes Lambe in the presence of }
 (Sgd.) E. STANLEY YOUNG
 „ W. G. WRIGHT

Sixpence
 in
 Postage Stamps

No. 8 (A).
 Copy
 Deed of
 Partnership
 dated
 21st July
 1924,
 with
 Affidavit
 of Rupert
 Carlyle
 Hollis-
 Hallett,
 2nd
 September
 1950,
continued.

No. 8 (A).
Copy
Deed of
Partnership
dated
21st July
1924,
with
Affidavit
of Rupert
Carlyle
Hollis-
Hallett,
2nd
September
1950,
continued.

The Affidavit referred to herein and marked " B "

IN THE SUPREME COURT OF BERMUDA.

IN THE MATTER of the ESTATE of JAMES NELMES LAMBE
deceased.

Between HERBERT LAMBE WILLIAMS . . . Appellant

and

EDGAR RODERIC WILLIAMS . . . Respondent.

I, RUPERT CARLYLE HOLLIS-HALLETT of Pembroke Parish in
the Islands of Bermuda, Barrister-at-Law Assistant Justice of the
Supreme Court of Bermuda, make oath and say as follows : 10

1. That as a member of the firm of Messrs. Hallett & Whitney,
Attorneys-at-Law, of Church Street in the City of Hamilton in the Islands
aforesaid, I settled the estate of John Emilio Lightbourn, deceased
following his death on the 2nd day of April, 1929 on behalf of his widow
Antoinette Lightbourn, the administratrix with the Will annexed.

2. Also as a member of the aforesaid firm of Attorneys, I settled
the estate of the said Antoinette Lightbourn (the sole beneficiary under
the Will of the said John Emilio Lightbourn) following her death on the
30th day of June 1939 on behalf of the executors and trustees named
in her Will. 20

3. That the document hereto annexed and marked " A " and
initialled by me has recently been produced from the files of the Estates
of the said John Emilio Lightbourn and Antoinette Lightbourn which
were maintained at the offices of Messrs. Hallett & Whitney aforesaid.

4. That during the course of settling the aforementioned estate of
John Emilio Lightbourn deceased, I saw the original executed partnership
Indenture dated the 21st day of July 1924 and made between the said
John Emilio Lightbourn and the said James Nelmes Lambe, the other
partner, relating to and concerning the business known as John Emilio
Lightbourn and Company and that the said document hereto annexed 30
and marked " A " and initialled by me is a true and correct copy thereof
to the best of my knowledge information and belief.

Sworn at the City of Hamilton in the
Islands of Bermuda this 2nd day of
September 1950 } R. C. HOLLIS-HALLETT

Before me :
W. N. PARKER,
Registrar of the Supreme Court of Bermuda.



No. 8 (B).

CERTIFICATE OF DEATH of John Emilio Lightbourn.

No.	Name in full	Sex	Age	Description and whether white or coloured	Residence at death	Date of Death	Cause of Death	Parents' Names	Name and Description of Informant and his Signature	Date of Registration
24961	John Emilio Lightbourn	M	77	Married W.	Pembroke	2nd April 1929	Myocarditis Certificate O. Arton, M.D.	Theophilus James and Frances Lightbourn	James Nelmes Lambe Principal Agent in Burial James N. Lambe	8th April 1929 S. P. Eve

I, WILFRED NORMAN PARKER, Registrar General of Births, Deaths and Marriages for the Bermuda or Somers' Islands, do hereby certify that the within document marked "A" is a true copy of the entry of the death of JOHN EMILIO LIGHTBOURN in the General Register of Deaths in my office.

In testimony whereof I have at Bermuda)
aforesaid hereto subscribed my name }
and affixed my seal of office, the 26th }
day of May, 1950

(Seal)

W. NORMAN PARKER,
Registrar General.

No. 8 (B).
Certificate
of Death
on 2nd
April 1929,
of John
Emilio
Lightbourn.

No. 8 (E).
Further
Affidavit
of Rupert
Carlyle
Hollis-
Hallett,
28th
October
1950.

No. 8 (E).

FURTHER AFFIDAVIT of Rupert Carlyle Hollis-Hallett.

I RUPERT CARLYLE HOLLIS-HALLETT of Pembroke Parish in the Islands of Bermuda Barrister-at-Law Assistant Justice of the Supreme Court of Bermuda make oath and say as follows :—

1. I crave leave to refer to the Affidavit sworn by me in this matter on 2nd September 1950.

2. John Emilio Lightbourn who carried on business in partnership with the above-named James Nelmes Lambe under the style of "J. E. Lightbourn and Company" died on 2nd April 1929. He is the same person as "John Emilio Lightbourn" named in the Certificate of Death now produced and shown to me marked "H.1." 10

3. After the death of the said John Emilio Lightbourn and pursuant to the provisions of Deed of Partnership of the firm the said James Nelmes Lambe purchased from Antoinette Lightbourn his widow and administratrix the share of the said John Emilio Lightbourn in the partnership firm. The purchase price was £32,800 and payment thereof was secured by a Mortgage dated 30th June 1930 whereof Heads of Mortgage were on 3rd July 1930 registered in the Book of Mortgages No. 23 at page 304 in the Registry of the Supreme Court of Bermuda. 20

4. I have searched in the said Registry and the said Mortgage appears to be still subsisting.

5. I am able to depose to the matters aforesaid from having acted for the said John Emilio Lightbourn and for the said Antoinette Lightbourn and in the administration of their respective estates.

Sworn at Hamilton, Bermuda, this 28th }
day of October, 1950, } R. C. HOLLIS-HALLETT

Before me,

W. NORMAN PARKER,

Registrar of the Supreme Court, 30
A Commissioner for taking affidavits in the Supreme
Court of Bermuda.

COPY BALANCE SHEET of J. E. Lightbourn & Company as at 31st July 1927.

J. E. LIGHTBOURN & COMPANY

BALANCE SHEET AS AT JULY 31, 1927

LIABILITIES		ASSETS	
Sundry Creditors	£495 14 6½	Investments	
Capital Accounts:		Riddles Bay G. & C. Club ..	£500 0 0
J. E. Lightbourn		Do. Debentures ..	250 0 0
Balance as at Aug. 1, 1926 ..	£40925 10 4	Bermuda Theatre Co. ..	25 0 0
Deduct—Drawings ..	1601 14 9½	Shore Hills Golf Club ..	100 0 0
Balance of purchase price of Store property ..	2000 0 0	Furniture & Fittings	
Half Share of Loss ..	218 14 1½	Store & Office ..	327 19 9
	3820 8 11	City Inn ..	20 0 0
		Atlantic Bar ..	10 16 0
J. N. Lambe		Trolley ..	358 15 9
Balance as at Aug. 1, 1925 ..	23480 9 11½	Deferred Expenses ..	57 10 0
Deduct—Drawings ..	1070 9 4½	E. R. Williams—See Note ..	57 0 0
Balance of purchase price of Store property ..		W. J. N. Stoney—Loan ..	3284 11 10
Half Share of Loss ..		Sundry Debtors on Open Account ..	211 0 0
		Less—Reserve for Bad Debts ..	6942 17 5
		Stocks on Hand	
		Store & Warehouse ..	37251 9 11
		City Inn ..	390 11 4
		Advances on account of Purchases ..	37642 1 3
		Cash in Banks and on Hand	995 10 9½
		Chatham Phenix National Bank ..	6597 0 2
		Bank of N. T. Butterfield ..	334 0 6
		Cash on Hand ..	436 14 8
			7367 15 4
	£57792 2 4½		£57792 2 4½

NOTE—No commission due E. R. Williams has been accrued in the above Balance Sheet and adjustment in this respect will have to be subsequently through the individual Partners Capital Account for the four fiscal years ended July 31, 1927.

In the Privy Council.

ON APPEAL FROM THE SUPREME COURT OF BERMUDA.

IN THE MATTER of the Estate of JAMES NELMES LAMBE, deceased

BETWEEN

HERBERT LAMBE WILLIAMS (Defendant) - - - *Appellant*

AND

EDGAR RODERIC WILLIAMS (Plaintiff) - - - *Respondent.*

RECORD OF PROCEEDINGS

CULROSS & TRELAWNY,
65 DUKE STREET,
GROSVENOR SQUARE,
LONDON, W.1,
Solicitors for the Appellant.

THEODORE GODDARD & CO., AND DEACONS & PRITCHARDS,
5 NEW COURT,
LINCOLN'S INN,
LONDON, W.C.2,
Solicitors for the Respondent.