

39, 1930

In the Privy Council.

No. 56 of 1929.

ON APPEAL FROM THE APPELLATE DIVISION OF THE SUPREME COURT OF ONTARIO.

BETWEEN

ELIZABETH BETHUNE CAMPBELL - - *Appellant*

AND

W. D. HOGG and THE TORONTO GENERAL
TRUSTS CORPORATION - - - - *Respondents.*

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CASE OF THE RESPONDENT

THE TORONTO GENERAL TRUSTS CORPORATION.

1. This is an appeal from a judgment of the Appellate Division of the Supreme Court of Ontario dated the 29th day of November 1928 dismissing an appeal by the Appellant and allowing an appeal by the Respondent W. D. Hogg from an Order of The Honourable Mr. Justice Masten dated the 19th day of December 1927, which Order was made on an appeal from the judgment of His Honour Judge Mulligan, Judge of the Surrogate Court of the County of Carleton, dated the 21st day of October 1927.

Record.
pp. 227-228,
Ex. 28.
p. 202,
Ex. 19.
pp. 195-196,
Ex. 15.

20 The judgment of the Appellate Division restored the judgment of His Honour Judge Mulligan, which had been varied by the Order of The Honourable Mr. Justice Masten.

2. This Respondent was appointed committee of the Estate of Elizabeth Mary Howland, widow of Sir William Howland, by an Order of The Honourable Mr. Justice Middleton dated the 6th day of October 1922 and on her death which occurred on the 14th day of August 1924 was appointed administrator of her Estate by the Surrogate Court of the County

p. 321.
p. 4, l. 14.
p. 220, l. 13.
p. 4, l. 15.

RESPONDENT'S CASE.
TORONTO GEN. TRUSTS

of York, the heirs-at-law of the said Elizabeth Mary Howland, being the Appellant who is entitled to a one-half interest in the said Estate, Cora Ann Lindsay, who is entitled to one-quarter interest, and Annie Bethune McDougald, who is entitled to the remaining one-quarter interest.

3. The Respondent W. D. Hogg is one of His Majesty's Counsel residing in the City of Ottawa and is a brother-in-law of the late Elizabeth Mary Howland who formerly was Elizabeth Mary Bethune. On the death of her first husband James Bethune, Q.C., in 1884 Mrs. Bethune, as she then was, applied to Mr. Hogg to assist her in her financial affairs, which he did, and in connection therewith made investments for her and collected the revenue arising therefrom on her behalf. 10

p. 1, l. 8.
p. 1, l. 11.
p. 32, l. 30.
p. 18, l. 29,
Ex. 7.
pp. 18 to 30.

4. The Respondent W. D. Hogg petitioned the Surrogate Court Judge of the County of Carleton to examine, audit and pass his accounts in respect of his receipts and expenditures on behalf of Elizabeth Mary Howland and the Judge of the said Court gave an appointment dated the 7th day of January 1927 for such purpose.

p. 3, l. 30,
Ex. 2.

p. 5, Ex. 3.

5. This Respondent was represented on such audit and passing of accounts and carefully investigated all sources of information as regards the same and caused all relevant information to be presented to the Court.

p. 195, l. 20,
Ex. 15.

6. This Respondent has appeared by Counsel in all subsequent proceedings and appeals in this matter and has caused all information in its possession or power to be presented to the Court. 20

p. 202, l. 20,
Ex. 19.
p. 228, l. 6,
Ex. 28.

7. This Respondent submits that if the Respondent W. D. Hogg is held liable for any further amount the same forms part of the Estate.

8. This Respondent submits its rights to this Honourable Board and respectfully submits that it should be paid its costs in the Courts below and of this appeal, for the following

REASON.

BECAUSE at all times this Respondent has used all diligence to realise the assets of the Estate has submitted its rights to the Courts below and has been put to great expense which has greatly depleted the assets of the Estate. 30

E. V. McKAGUE.

FRANK GAHAN.

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TION - - - *Respondents.*

CASE

**OF THE RESPONDENT THE
TORONTO GENERAL TRUSTS
CORPORATION.**

BLAKE & REDDEN,

17, Victoria Street, S.W.1.