

APPEAL DISMISSED IN DAVIS CASE BY THE PRIVY COUNCIL, A LARGE BILL FOR COSTS

London, Nov. 26—Judgment was delivered this morning by Lord Blanesburgh on behalf of the Judicial Committee of the Privy Council in regard to the appeal of Lady Davis et al versus Right Hon. Lord Shaughnessy and Alexander Reaper. The judgment dismisses the appeal.

Costs of the appeal paid into Court on June 30, 1831, will not be disturbed. Supreme Court costs are left to the discretion of the trial judge, if jurisdiction exists, otherwise Their Lordships will hold respondents justified in taking them out of the general estate. Costs of appellants and respondents in this appeal will be taken from the residuary estate, but, if there is any deficit, the costs of the respondents only will be taken out of the general estate.

Their Lordships declared that they were obliged to take cognizance of the fate that the allegation of fraud was dropped from the present appeal, and other charges which they declare ought never to have seen the light.

The judgment declares that the respondents could not be indifferent to a judicial attempt to remove them from an office of profit.

Imputations Dissipated

The Lordships offer considerable comment on the wide scope and great powers of the holding companies organized by Sir Mortimer Davis. They say that, had Lord Shaughnessy governed himself by what they conceive to be the true limitations of his office, many of these charges would never have arisen. They bluntly disagree with the decisions of the Canadian courts to the effect that Lady Davis was in an inferior position as a trustee, pointing out that Sir Mortimer Davis insisted that there should always be three trustees. They declare that Lady Davis was entitled to information, just the same as other trustees.

They mention the items of a Rolls-Royce and furniture as not being sufficiently important to call for further notice.

In their summing-up, Their Lordships say "Now that every imputation of fraud and mala fides has disappeared; now that there is no longer any risk of any course of administration which was shown to be irregular or unjustified to be continued or revived are there not here apparent circumstances, explanations and excuses, sufficient in the exceptional circumstances, if indeed this is not an unique case, to call for the exercise of judicial discretion in favor of the respondents? On a review of the whole case Their Lordships reach the conclusion that the answer must be in the affirmative. They accept the view that the respondents believed that they were doing what the testator would have done himself or would have agreed to do.

Correcting Innocent Mistakes

"They hold that Lady Davis had a responsibility hardly less than that of the respondents, and that respondents were largely influenced by judicial decisions, though erroneous, in Their Lordships' view.

The judgment says that the Judicial Committee was influenced by the fact that in the present case there were no imputations against Lord Shaughnessy's honor or integrity. Remembering the testator's practice of habitual generosity the second group of charges may be regarded as innocent mistakes capable of rectification, to whatever extent, if at all, liability had thereby been created.

Before the Privy Council Lady Davis was represented by W. K. McKeown K. C. of Montreal and D. N. Pritt, celebrated barrister of London, while Lord Shaughnessy and Alexander Reaper were represented by Mr. George A. Campbell K.C. of Montreal, alone.

The litigation was the most costly in Canadian history. Eleven noted lawyers were engaged, whose fees exceeded \$200,000. The total costs were over \$260,000.

Appellant Must Pay

Montreal, Nov. 25—Under the judgment reported above the costs in all three courts are to be paid either by Lady Davis and Mortimer B. Davis or by the estate. In both circumstances the practical effect of the judgment is the same, inasmuch as Lady Davis and Mortimer B. Davis are sole beneficiaries of the estate after certain specified legacies are paid.

A single proviso is made with regard to the costs in the Superior Court on which no decision was given by Mr. Justice Survever in the first judgment in the case. On that question the Privy Council declares that the Superior Court judge is required to deal with the matter if he has jurisdiction at this stage. If he finds he has no jurisdiction, the respondents, Lord Shaughnessy and Mr. Reaper are entitled to take their costs in the Superior Court out of the general estate as part of their expenses as executors and trustees.

In the Appeal Court the judgment of that court stands and the costs are charged against Lady Davis and Mortimer B. Davis. In the Privy Council the costs are to be paid by the executors and trustees out of the residuary estate with the provision that the costs of Lord Shaughnessy and Mr. Reaper are to be taken out first and those of the appellants last. Should there be insufficient funds in the estate to pay the costs of both parties the costs of Lord Shaughnessy and Mr. Reaper are to be taken out of the general estate before legacies are paid, as part of their expenses.

On the question of Superior Court costs which is the only point left undecided by the Privy Council judgment A. R. Holden K.C., one of the lawyers for Lord Shaughnessy and Mr. Reaper stated this morning that the matter is under consideration and the necessary procedure will be taken at once before Mr. Justice Survever to dispose of the question.

OPENING AND CLOSING OF THE ST. JOHN RIVER

The dates of the opening and closing of the St. John river at Fredericton since 1825 are as follows:

Year.	Open.	Close.	Days.
1825.....	April 15	November 20	219
1826.....	April 17	November 14	216
1827.....	May 1	November 25	202
1828.....	April 25	November 23	212
1829.....	April 16	November 23	221
1830.....	April 27	November 27	214
1831.....	April 6	December 3	241
1832.....	April 20	November 19	213
1833.....	April 17	November 15	212
1834.....	April 18	November 20	225
1835.....	April 10	December 1	235
1836.....	May 3	November 15	196
1837.....	April 10	November 5	209
1838.....	April 11	November 17	220
1839.....	May 1	November 23	204
1840.....	April 28	November 19	205
1841.....	April 17	November 9	206
1842.....	April 24	November 22	212
1843.....	April 26	November 13	201
1844.....	April 14	November 27	227
1845.....	April 23	December 4	225
1846.....	April 6	November 28	236
1847.....	May 2	November 30	212
1848.....	April 19	November 10	205
1849.....	April 8	December 2	238
1850.....	May 2	November 27	209
1851.....	April 16	November 17	215
1852.....	April 26	November 25	213
1853.....	April 17	November 25	222
1854.....	May 7	December 10	217
1855.....	April 28	November 22	208
1856.....	April 25	November 17	206
1857.....	April 18	December 5	231
1858.....	April 22	November 13	205
1859.....	April 16	November 29	227
1860.....	April 23	November 27	218
1861.....	April 20	December 3	227
1862.....	April 18	December 3	229
1863.....	April 22	November 17	209
1864.....	April 20	December 9	233
1865.....	April 6	November 10	218
1866.....	April 14	December 12	242
1867.....	April 22	November 17	209
1868.....	April 22	November 16	208
1869.....	April 20	November 26	220
1870.....	April 11	November 22	225
1871.....	April 10	November 24	228
1872.....	April 22	November 29	221
1873.....	April 23	November 12	203
1874.....	April 21	November 22	215
1875.....	April 27	November 19	206
1876.....	April 22	November 30	222
1877.....	April 13	December 4	235
1878.....	April 5	December 18	257
1879.....	April 27	November 22	209
1880.....	April 22	November 21	203
1881.....	April 2	November 22	234
1882.....	May 1	November 26	210
1883.....	April 18	November 15	211
1884.....	April 16	November 19	217
1885.....	April 23	November 27	218
1886.....	April 21	November 23	216
1887.....	April 27	December 1	218
1888.....	April 26	November 21	209
1889.....	April 26	December 1	229
1890.....	April 21	November 24	217
1891.....	April 14	November 29	229
1892.....	April 15	December 6	235
1893.....	April 14	November 21	221
1894.....	April 21	November 20	213
1895.....	April 19	November 22	217
1896.....	April 18	November 21	217
1897.....	April 21	November 21	214
1898.....	April 20	December 5	233
1899.....	April 26	November 13	201
1900.....	April 31	November 13	206
1901.....	April 17	November 24	221
1902.....	March 28	November 29	251
1903.....	March 24	November 27	247
1904.....	April 25	November 19	199
1905.....	April 20	November 21	215
1906.....	April 15	November 26	223
1907.....	April 17	November 20	217
1908.....	April 21	November 23	216
1909.....	April 19	November 30	225
1910.....	April 6	November 29	237
1911.....	April 19	November 17	212
1912.....	April 16	November 27	227
1913.....	April 1	December 1	214
1914.....	April 27	November 19	206
1915.....	April 12	December 11	243
1916.....	April 12	November 15	217
1917.....	April 19	November 23	243
1918.....	April 15	November 27	236
1919.....	April 8	November 28	264
1920.....	April 15	November 21	234
1921.....	Mar. 27	November 17	235
1922.....	April 8	November 24	230
1923.....	Apr 25	December 18	236
1924.....	April 22	November 19	210
1925.....	April 1	November 30	243
1926.....	May 1	December 4	216
1927.....	April 17	December 4	231
1928.....	April 14	November 27	227
1929.....	April 19	November 23	223
1930.....	April 8	December 2	243
1931.....	April 3	December 3	244
1932.....	April 9	November 27	232

PARIS STYLES

Paris, Nov. 28—Lovely new "off" shades which the Paris couture launched for this winter season have been successful beyond their wildest dreams. The new wine shades have been chosen by young and old alike, and the brighter magenta tones, either alone or in combination with other tones such as black, beige, and bottle green have appealed to the younger clients.

It is evident in the costumes encountered at restaurants and other public places, as well as the smart society people seen at private parties, that the return to the elegance predicted for several seasons has succeeded. There is a delightful and rich line to the costumes seen today, and the new colors and fabrics add a great deal to the richness and grandeur of the present mode. One can tell today if the woman you admire is dressed by the haute couture or is more noticeable than it has been for several seasons.

Another reason why "artists" are quickly divorced is that no house is big enough for two cases of swell head.

Always the world has been what is called "amusement mad." Evidently it is thought dull.

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MOON COMES THE MOUNTAIN, FIREMEN HURRY

Pittsburg, Nov. 26—Volunteer firemen of McCandless township are admitting defeat for the first time after having been summoned to put out the moon.

The nocturnal beacon hung low in the autumn sky, gilding the night with silver. A resident of the township peering from his window, missed the beauty of it all but noticed "a funny sight around John Huch's house."

Two fire companies were summoned and roared to the scene.

"Yeh," said Fire Marshall P. A. Brunn Jr., "it was just moonshine."

Our only hope is that Santa Claus doesn't linger this Christmas for just one more with the boys and neglect to come.

If you always have something to say, it is because you are a thinker or are not.

Recipes! Free

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POP-OVERS

3 eggs; 1 cup Borden's St. Charles Milk; 2 cups flour; 1/2 small tspn. salt; 1 cup water.

Beat the eggs ten minutes and then add the milk. Gradually add the flour, sifted, and the salt. Beat until absolutely smooth. Turn into hot, well-oiled gem pans and bake quickly.

LEMON MERINGUE PIE

3/4 cup Borden's St. Charles Milk; 3/4 cup hot water; 1 1/2 cups sugar; 4 1/2 tblspns. corn starch; 1 tspn. butter; 2 eggs; juice 2 lemons; grated rind 1 lemon; few grains salt; 1 cooked pastry shell.

Combine the milk and water in a double boiler top, add the sugar and cornstarch, thoroughly mixed together, and cook fifteen minutes, stirring occasionally. Separate the eggs, beat the yolks light, combine them with a little of the hot milk, stir into the thickened mixture and cook five minutes longer, stirring occasionally. Then add the salt and when somewhat cooled stir in the lemon juice and rind, pour into the pastry shell, heap with a meringue made of two egg whites, and a third cup of powdered sugar, and cook in a slow oven for ten minutes until the meringue is firm and delicately browned.

CREAM OF ASPARAGUS SOUP

1 bunch or can asparagus; 4 cups cold water; 2 slices onion; 1/2 tspn. sugar; blade of mace; 2 tblspns. butter; 2 tblspns. flour; 1 tspn. salt; 1-8 tspn. pepper; 2 cups Borden's St. Charles Milk; 1 egg yolk; dash of paprika.

If fresh asparagus used, remove tips and cook them in a little boiling salted water until tender; if canned, cut off tips and lay aside. Cut up stalks. Cover with cold water. Add onion, sugar, and mace. Cook until tender. Strain through sieve, pressing asparagus well to extract flavor. Melt butter in saucepan and stir in flour. Add salt, pepper, and asparagus puree. Continue stirring until thickened. Add one-and-a-half cups St. Charles Milk and the asparagus tips. Bring to boiling point, and simmer five minutes. Combine beaten egg yolk with the remaining milk and add to mixture. Let come to boil. Serve each portion with a dash of paprika over top.

Borden's ST. CHARLES MILK (Unsweetened)

Borden's ST. CHARLES EVAPORATED MILK