

The judgment should be reversed and the action be dismissed with costs.

MAGEE, J.A., and LATCHFORD, J., agreed with MACLAREN, J.A.

HODGINS, J.A., read a short judgment. He agreed with the conclusion that the will must be established. He drew attention to two cases in Canada where the Court had, in circumstances not entirely dissimilar, upheld wills: *Menzies v. White* (1862), 9 Gr. 574; *McLaughlin v. McLellan* (1896), 26 Can. S.C.R. 646.

Appeal allowed.

FIRST DIVISIONAL COURT.

JUNE 23RD, 1919.

*RE STUDEBAKER CORPORATION OF CANADA
LIMITED AND CITY OF WINDSOR.

Assessment and Taxes—Business Assessment—Business of Manufacturer—Show-room and Sales-room Situated in City—Factory in another Place—Assessment by City—Assessment Act, R.S.O. 1914 ch. 195, sec. 10 (1) (d).

An appeal by the Studebaker Corporation of Canada Limited from an order of the Judge of the County Court of the County of Essex allowing an appeal from the decision of the Court of Revision of the City of Windsor as to the business assessment of the appellant corporation. The appeal was upon a special case stated by the Judge of the County Court under the Assessment Act.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

A. J. Gordon, for the appellant corporation.

F. D. Davis, for the city corporation, respondent.

MEREDITH, C.J.O., in a written judgment, said that he was of opinion that, upon the facts as disclosed in the special case, the appellant corporation was properly assessed under cl. (d) of sub-sec. 1 of sec. 10 of the Assessment Act, R.S.O. 1914 ch. 195.

The business assessment is upon persons occupying or using land for the purpose of any business mentioned, or described in sec. 10, and the provision of cl. (d) is, that every person carrying on the business of a manufacturer shall be assessed for a sum equal to 60 per cent. of the assessed value of the land.