

HODGINS, J.A.

DECEMBER 13TH, 1920.

RE DOUGHTY.

Absentee—Order Declaring Person an Absentee—Application by Person himself to Rescind Order—Absentee Act, 10 & 11 Geo. V. ch. 36, secs. 5, 6—Consent of Committee—Necessity for Notice to Person who Obtained Order—Affidavit Shewing Conditions—Terms of Rescinding Order.

Application on behalf of John Doughty, a person by order declared an absentee under the Absentee Act, 10 & 11 Geo. V. ch. 36, for an order, under sec. 6, superseding the former order. The application was made on the consent of the Chartered Trust and Executor Company, the committee of the estate of the absentee.

The application was heard in the Weekly Court, Toronto.
Clara Brett Martin, for the applicant.

HODGINS, J.A., in a written judgment, said that John Doughty's wife, as the person who obtained the order, should have formal notice of the application to vacate it. Notice might be given and the matter mentioned again. An affidavit must meantime be filed to satisfy the Court, pursuant to sec. 5 of the Absentee Act, that the conditions necessary to enable the order to be set aside had arisen. Mere consent by the committee was not enough.

The order must contain the terms mentioned in the last 3 lines of sec. 6.

SUTHERLAND, J.

DECEMBER 14TH, 1920.

RE McCREADY.

Will—Construction—Substituted Bequest to Surviving Children of Sister Named as Beneficiary—Period of Payment—Ascertainment of Class—Children of Deceased Child of Sister not Included.

Application by the executors of the will of William McCready, deceased, and by all the beneficiaries except the infants, for an order determining a question as to the construction of the will.

The application was heard in the Weekly Court, Toronto.
J. E. Lawson, for the applicants.
I. F. Hellmuth, K.C., for the Official Guardian.