MIDDLETON, J. OCTOBER 16TH, 1913.

*RE FULFORD.

Will—Construction—Investments by Executors—Retention of Investments Made by Testator—Authority to Hold "Increased Stock Received by Way of Stock Dividends"—"Similar Additions to my Holdings"—Securities Substituted for Original Investments—Re-organisation of Companies—Duty of Executors—Shares Held by Testator not fully Paid-up—Realisation of Unauthorised Securities—Discretion—Advice of Court—Accretions to Estate—Apportionment between Capital and Income—Power to Retain Investments—Implication of Power to Make Similar Investments.

Motion by the executors of the will of George Taylor Fulford, deceased, upon originating notice, for an order determining certain questions arising upon the will and in the administration of the estate.

E. T. Malone, K.C., for the executors.

H. S. Osler, K.C., for the Official Guardian, representing the infant son and infant grandsons of the testator and grandchildren who may hereafter be born.

M. C. Cameron, for Mrs. Hardy, life-tenant.

MIDDLETON, J.:—During his lifetime, the late Mr. Fulford had been largely interested in various industrial undertakings, and held a large amount of stock and other securities of a more or less speculative and uncertain value. By paragraph 4 of his will he provided: "I authorise my executors to keep any of the investments which I may have at my decease and I direct them to invest the moneys of my estate as they come in in Government bonds and securities and in municipal debentures of the Dominion of Canada and the Provinces and municipalities therein and of the United States of America and the States and municipalities thereof and I also authorise them to hold any increased stock received by way of stock dividends or similar additions to my holdings."

The question that is now raised arises with reference to the duty of the executors under this clause. The executors have retained the stock and other securities held by the deceased;

*To be reported in the Ontario Law Reports.