

should think fit." Kekewich, J., read these words as not confined to such "proper" stocks, etc.; because "to give them a narrow construction would be in effect to strike them out of the will." He treated them as meaning such securities as the trustees "honestly thought fit" to invest in; and held that the debentures, in the nature of a floating security, of a limited company, payable to bearer, were an investment within the power. The power to invest given in this will is equivalent to a power to retain such securities as they might invest in. . . .

[Reference to *Ames v. Parkinson*, 7 Beav. 379; *Fraser v. Murdock*, 6 App. Cas. at p. 877; *In re Chapman*, [1896] 2 Ch. 763; *Rawsthorne v. Rowley*, 24 Times L.R. 51, [1909] 1 Ch. 409; *Buxton v. Buxton*, 1 My. & Cr. 80; *Marsden v. Kent*, 5 Ch. D. 598.]

These cases seems to justify the view that, if the trustees "acted in good faith and that their decision to retain this stock was an honest exercise of the discretion given to them by the will" (per Lord Selborne in *Fraser v. Murdock*, ante), and if the will did in fact authorise retention—for this is the effect, I think, of *National Trustees v. General Finance Co.*, [1905] A.C. 373; *Davis v. Hutchings*, [1907] 1 Ch. 356; *Whicher v. National Trust Co.*, 22 O.L.R. 460, [1912] A.C. 377; *In re Grindey*, [1892] 2 Ch. 593; and *Henning v. Maclean*, 2 O.L.R. 169, 4 O.L.R. 666—their abstaining from selling, hoping for a better price, from 1878 to 1882, was fairly justified.

But in 1882 the stock was cut in half, and that which had been taken in as worth \$3,300, i.e., 66 per cent. on \$5,000, became worth no more than one-half of the par value.

As I have said, I see nothing in the evidence or documents filed to warrant the conclusion that there was any setting apart of this stock in 1881 to answer this legacy. . . . I think the conduct of the respondents must be judged in the light of this intention and of the reduction of the stock which occurred next year.

There is nothing to indicate the value of the stock immediately or shortly after the reduction. Probably it would approximate to fifty per cent. on the original par value, upon the belief that the reduction had ascertained and eliminated the total losses of the bank, and that the stock would be worth at least the amount to which it had been reduced.

The rule under the statute, stated in *National Trustees v. General Finance Co.*, [1905] A.C. 373, is, that where the Court finds that the trustee has acted both honestly and reasonably,