

be necessary for their proper maintenance. Costs of all parties out of the estate. J. B. McKillop, for the executors and adult beneficiaries. F. P. Betts, K.C., for the infants.

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RE FISCHER—LENNOX, J.—OCT. 4.

*Will—Construction—Bequest of Share of Estate to Widow Absolutely and Further Share if she should Remain Unmarried—Conversion of Estate into Money and Investment in Ontario—Payment of Smaller Share to Widow—Further Share Retained by Executors and Income Paid to Widow—Removal of Widow from Ontario—Corpus to Remain in Ontario.*—Motion by the executors of Joseph Fischer, deceased, for an order determining certain questions arising upon the construction of his will. LENNOX, J., said that the widow was named in the will as executrix, along with the applicants as executors. The widow had removed herself to the State of Wisconsin, and all the children of the deceased were living with her. The property had been converted into money and invested in Ontario with the consent of the executrix, the widow. She was to be entitled to one-third of the estate only if she married again, and to one-half of it only in the event of her remaining a widow. Whether she would ever become entitled to more than one-third of the corpus could not be determined in her lifetime. Being entitled to one-third of the corpus in any event, there was no reason why she should not be paid one-third now. After payment of this one-third, the widow would, while she remained unmarried, be entitled beneficially to the income of the one-sixth share of the estate to which she was contingently entitled. This could not be disposed of by the executors until after her death or marriage. As to the second question, the corpus of the property, beyond the one-third which the widow took beneficially, should not be handed over to her by the resident executors. She approved of the conversion of the estate into money and the investment of the proceeds. The income was being regularly remitted to her half-yearly. It was not the policy of the Court to sanction the withdrawal of trust funds from its jurisdiction, unless in exceptional circumstances; and no sufficient ground had been shewn here. Costs to all parties out of the estate—to the executors upon a solicitor and client basis. J. A. Seellen, for the resident executors. W. H. Gregory, for the widow. E. P. Clement, K.C., for the Official Guardian.