MIDDLETON, J.   JUNE 30TH, 1915.

RE GOUINLOCK.

*Will—Construction—Devise—Life Estate with Power of Sale
and Right to Encroach upon Corpus—Vendor and Pur-
chaser—Right of Life-tenant to Convey.*

Application by John Gouinlock, executor of the will of Char-
lotte Gouinlock, deceased, for an order determining certain ques-
tions arising upon the terms of the will in the course of the
administration of the estate of the deceased.

The testatrix, after some bequests of personalty, gave her
husband, the executor, all the residue of her estate, real and
personal, "to have and to hold for his sole use and benefit in such
manner as he considers best during his lifetime and after his
death any of my estate then remaining shall be divided be-
tween my children as follows: to my daughter Edith May if she
be at that time unmarried . . . four-tenths of my estate
. . . and to my son Walter Fairgrieve three-tenths . . .
and to my son James Muir three-tenths . . . but should my
daughter Edith May be at that time married then my estate shall
be equally divided share and share alike between my three chil-
dren aforementioned. Should either of them die without issue
the estate shall be equally apportioned to the survivor. In the
event of the death of either of them with issue deceased's share
shall go to the said deceased's children if any in equal shares."

The will was dated the 13th October, 1902; the testatrix died
on the 10th April, 1912; the husband and three children named
in the will (there were no others) survived her; at the time
of the death of the testatrix all three children were of age; the
daughter was then and at the time of the application unmar-
ried; both the sons were married; one only had had issue.

The substantial portion of the estate of the deceased con-
sisted of land, which the husband and executor desired to sell,
having found a purchaser.

The motion was heard in the Weekly Court at Toronto.
J. Gilchrist, for the executor.
H. E. Rose, K.C., for the purchaser.
G. T. Walsh, for the adult beneficiaries.
F. W. Harcourt, K.C., for the infant grandchild and unborn
issue.