but, on the other hand, the opposite rule would even more frequently result in defeating his intention.

Two things have been frequently found in wills which the Courts have taken as an indication of a contrary intention. When a testator speaks of that which he gives as that which he owns at the date of the will, clearly that and that alone is given, for the provision is not that the will must in all respects be regarded as made immediately before the death.

Then when the will speaks of a specific thing and is not general in its provisions, the thing given must be determined by the language used by the testator. Nothing else passes, for nothing else is given. It has always been held that, when the thing given remains and has been added to between the date of the will and the date of death, the whole property answering the description at the latter date will pass.

Reference to In re Willis, [1911] 2 Ch. 563; In re Champion, [1893] 1 Ch. 101; In re Portal and Lamb (1885), 30 Ch. D. 50; Morrison v. Morrison (1885), 10 O.R. 303; Hatton v. Bertram (1887), 13 O.R. 766.

The whole property "on Merton street" passed under the devise of the "house and premises on Merton street."

Costs of all parties out of the residuary estate, if any, of the testator. If there is no residuary estate, no costs.

MEREDITH, C.J.C.P., IN CHAMBERS. MARCH 23RD, 1918.

McFARLANE v. PRICE.

Vexatious Proceedings—Action for Account and Redemption—Judgment for Foreclosure in Previous Action—Attempt to Open up—Refusal to Dismiss Action as Frivolous or Vexatious.

Motion by the defendants for an order dismissing the action as vexatious or frivolous.

Parker, for the defendants.
J. H. Hoffman, for the plaintiff.

MEREDITH, C.J.C.P., in a written judgment, said that the defendants' contention was that this action was really brought for the purpose of opening a foreclosure decreed in another action, recently in this Court; and that that was an improper mode of