

be sold and equally divided, and I appoint my stepson . . . and his daughter . . . to execute this my will."

Held, that the right of the executors to sell the real estate of the testatrix was not affected by the Devolution of Estates Act, but that, independently of that Act, the executors had, upon the true construction of the will, an express power to sell the real estate.

Tremear, for vendor. *Grierson*, for purchaser. *M. C. Cameron*, for official guardian.

Trial—Anglin, J.]

[June 30.

CLEARY v. CORPORATION OF WINDSOR.

Municipal corporations—By-law—Construction of sidewalk—Electorate—Ultra vires—Width of sidewalk—Time for completion.

A municipal by-law, submitted to and approved of by the electorate, provided for the raising, by the issue of debentures, of \$56,000 for the construction of certain sidewalks five feet wide to be completed within the year 1904; and delegated to the city engineer the duty of defining the line and grade upon which such sidewalks should be constructed. A subsequent by-law of 1905, not submitted to the electorate for approval, purported to reduce the width of the sidewalk, which had not yet been constructed, to four feet.

Held, that this latter by-law was ultra vires, both as altering the width, and as extending the time for completion.

F. E. Hodgins, K.C., and *J. L. Murphy*, for plaintiff. *A. H. G. Ellis*, for defendants.

Falconbridge, C.J.K.B.]

[July 10.

RE JAMES SCOTT ESTATE.

Will—Annuitant—"Certain"—Liability to contribute to income tax of estate.

A testator directed his executors to pay his sister out of his estate the annual income of \$6,000 per year for her life, and in case there should be a deficiency, to make it up out of the principal of the estate, "my wish being that my sister shall receive during her life an annual income of \$6,000 per annum certain."