

It was also contended that in any case the annuities were not, as my brother Middleton held, annuities for the lives of the annuitants, but were perpetual. Practically all the previous cases bearing on this branch of the inquiry, and they are numerous, were discussed by Monroe, J., in *In re Forster* (1889), 23 Ir. Ch.R. 269, and the result of them, as well as of that case and the subsequent cases of *In re Morgan*, *Ward v. Ward*, [1903] 1 I.R. 211, and *In re Smith's Estate*, [1905] 1 I.R. 453, is, that there is nothing in the will in question to take the case out of the ordinary rule that where annuities are created de novo the annuitants take only for life, although the gift of them is limited to several persons successively for life and then to their children.

On this branch of the case I agree with the judgment of my brother Middleton.

The result is that, in my opinion, the appeal fails and should be dismissed, and that the costs of all parties of the appeal, those of the executors between solicitor and client, should be paid out of the estate.

MAY 1ST, 1914.

*RE C. M. BILLINGS AND CANADIAN NORTHERN ONTARIO R.W. CO.

Railway—Expropriation of Land—Arbitration and Award—Appeal from Award—Question of Amount—Method of Ascertainment—Evidence of General Rise in Value of Lands in Neighbourhood—Relevancy—Frontage Value—Potential Value—Allowance for Clay “Filling”—Increase in Amount Awarded.

Appeal by C. M. Billings from an award under the Railway Act of Canada.

The award was made by His Honour Judge MacTavish and Mr. G. F. Macdonnell, two of the three arbitrators appointed to fix the compensation to be paid by the railway company, the respondent, to the appellant, for lands taken by the respondent for the purposes of its right of way. The amount awarded for the lands taken and for damages to the lands of the appellant

*To be reported in the Ontario Law Reports.