

any greater estate. The testator has not used the word "heirs," nor has he used any other words as equivalent to "heirs." If Thomas himself leaves him surviving children or remoter issue, then such children or issue will take as tenants in common per stirpes. If he leaves him surviving no children or issue of children, then the brothers and sisters named will take. I read this gift over as relating to the death of Thomas. This should be so declared, and the order sought should go for the raising of the money under the Settled Estates Act.

The costs of all parties should be paid out of the money so raised. I direct this in preference to directing the costs to be paid out of the estate, because the application is really one in ease of the owners of this particular parcel, and does not affect the testator's general estate. Myron Ames was properly notified as one of those interested in the gift over. The application does not concern in any way the parcel devised to him.

MIDDLETON, J.

OCTOBER 8TH, 1913.

RE BOYLE AND CITY OF TORONTO.

*Municipal Corporations—Expropriation by City By-law of outside Land for Addition to Industrial Farm—"Acquire"—Municipal Act, 1913, sec. 6—Special Act, 1 Geo. V. ch. 119, sec. 5—Bona Fides—Statutory Powers—Exhausting by Original Purchase—Interpretation Act, 7 Edw. VII. ch. 2, sec. 7 (33).*

Motion by Boyle, the owner of certain lands sought to be taken by the Corporation of the City of Toronto, by by-law No. 6353, intituled, "A By-law to Acquire Additional Lands for the Industrial Farm," to quash this by-law.

H. H. Dewart, K.C., for the applicant.

Irving S. Fairty, for the corporation.

MIDDLETON, J.:—By sec. 576 (3) the council of any city or town may pass a by-law "for acquiring any estate in landed property, within or without the city or town, for an industrial farm." At the time of the passing of this statute the word "acquire" had not the wide significance now given to it by the Municipal Act of 1913, sec. 6—which provides that the power to acquire shall include the power to acquire by purchase or