

From McMahon, J.] DOIDGE v. ROYAL TEMPLARS. [June 28.

*Insurance—Benevolent Certificate—Alteration of Constitution—Internal appeals—Retroactivity.*

Appeal by defendants from judgment of McMAHON, J. Action on a beneficiary certificate dated Oct. 19, 1896, issued by the defendants, who were incorporated under the Benevolent Societies Act, R.S.O. 1877, c. 167, to the plaintiff, conditioned, inter alia, that he complied with the Constitution, rules or orders governing, "or that might thereafter be enacted by the defendants to govern the Order and its Benefit Funds," and by which the defendants agreed that, on the plaintiff attaining the age of 70, which he had done, they would pay out of the Total Disability Fund, "in accordance with the laws governing such Fund," sums not exceeding a certain amount.

*Held*, that the constitution of the defendants having been duly altered in 1900 in respect to a beneficiary claiming on the ground of having attained the age of 70 years, from what it was in 1896 when the plaintiff's certificate was issued in such a way as to diminish the amount the plaintiff was entitled to; he was nevertheless bound by the alteration, and could only recover in accordance with it.

*Held*, also, that the plaintiff was not bound before action to exhaust the intricate series of appeals within the Society provided for by the rules, for under R.S.O. 1897, c. 203, s. 80, every lawful claim against an insurance corporation under an insurance contract shall become legally payable 60 days after proper proofs of loss, and any rules, conditions or stipulation to the contrary shall, as against the assured, be void.

*Watson*, K.C., and *Gallagher*, for defendants. *Washington*, K.C., for plaintiff.

From Divisional Court.]

[June 28.

TORONTO PUBLIC SCHOOL BOARD v. CITY OF TORONTO.

*Public schools—Annual estimate—Duty of municipality.*

Under the proper construction of ss. 65 (9) and 71 (1) of The Public Schools Act, 1 Edw. VII., c. 39, which provides that the Public School Trustees are to submit to the municipal council an estimate of the expenses of the schools under their charge for the current year, and that the council shall levy and collect upon the taxable property of the municipality such sums as may be required by the trustees, and shall pay the same to the treasurer of the public school board; the right of the school board in preparing their estimate, is to include therein everything that in their best judgment may be needed to meet legitimate expenditure, that is, expenditure upon objects or for purposes within their lawful authority, and their duty to the council is to prepare it in such a manner as to shew generally