NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

COURT OF APPEAL.

ROMNEY v. MERSEA.

Municipal drainage—Assessments for.

A petition of ten proprietors for a by-law to construct a drain which benefited a great number of lots, and for which about 150 proprietors were assessed in two townships,

Held, not sufficient to support the by-law, which was therefore quashed.

Atkinson, for appeal.

Robinson, Q.C., contra.

YORK v. GRAVEL ROADS.

Injunction—Steam motor.

The Court being equally divided, the appeal was dismissed.

Per BURTON and ROSE.—The state having interfered by 44 Vict. cap. 57 (O.), there should be a reference under that Act to ascertain the compensation.

Robinson, Q.C., and *Osler*, Q.C., for appeal.

J. K. Kerr, Q.C., and *Cassels*, Q.C., contra.

HOGG v. MAGUIRE.

Will—Obtained by undue influence.

E. B. made a will, whereby he gave the bulk of his property to the plaintiff, his sister. The defendant, another sister, claimed under a second will made an hour or two before the testator's death. The evidence showed that testator was a very determined man, and not easily influenced; that he was suffering from excessive drinking; that he latterly spoke in offensive terms of defendant, and had frequently, and as late as a few days before his death stated that if he died everything was arranged, and that the plaintiff would get his property. Shortly before his death the defendant had him brought to her house. On the night of his death the physician in attendance told defendant that if anything was to be settled it should be done at once. A solicitor was sent for to draw a will. The defendant instructed him before he saw the testator. When the will was drawn, which gave the bulk of his property to the defendant, but contained a legacy of $1,000 to plaintiff, the solicitor read it over to the testator and asked him if he approved of it. He made a sign of dissent. The defendant tried to persuade the testator to give plaintiff $1,000, but (as defendant said) he said $10 was enough. In its altered form the will was signed. The evidence of various witnesses for the defence was conflicting as to the incidents which happened during this time and until the testator's decease; but while they all spoke of the testator's unwillingness to give the plaintiff more than $10, there was no evidence other than that of the defendant of his desire to give the defendant the bulk of his property, or of any disposition of his property.

Held, reversing the judgment of Court below, that the second will could not be established on the uncorroborated evidence of the defendant, and the first will was declared to be the testator's last will.

Robinson, Q.C., for appeal.

S. H. Blake, Q.C., *Lash*, Q.C., and *Francis*, contra.

MCKENZIE v. DWIGHT.

Deceit—N.-W. Mounted Police warrant—Assignment of—Representation as to right of holder.

The Court being equally divided, the appeal was dismissed, and the judgment of the Court below, 2 O. R. 366, affirmed with costs.

McCarthy, Q.C., for the appellant.

McMichael, Q.C., and *Pearson*, for the respondent.

ELLIOTT v. BROWN.

Conveyance by married woman—Want of certificate of execution—Possession contrary to deed—R. S. O. ch. 128, secs. 13, 14.

A married woman in 1834, by deed joining with her husband, purported to convey the east half of a lot to T. in fee simple, but the deed was void for want of a magistrate's certificate. T. never took possession, but in 1852