Province of Ontario.

COURT OF APPEAL.

[March 10.

BIRELY *v.* TORONTO, HAMILTON & BUFFALO R.W. CO.

Railways—Expropriation—Award—Appeal—51 Vict., c. 29, s. 161 (D.).

Under s. 161 of Dominion Railway Act, 51 Vict., c. 29 (D.), an appeal lies in this Province by either party from an award of compensation exceeding $400, either to the Court of Appeal or to the High Court of Justice, but if an appeal is taken to the latter tribunal no further appeal lies by either party to the Court of Appeal.

Aylesworth, Q.C., for plaintiffs. *D'Arcy Tate*, for defendants.

From Armour, C.J.] WEBSTER *v.* CHICKMORE. [March 15.

Assignments and preferences—Pressure.

Where a preferential security is attacked within sixty days, pressure is of no avail to rebut the presumption of invalidity. Judgment of ARMOUR, C.J., reversed. BURTON, C.J.O., dissenting.

Ryckman and *C. W. Kerr* for appellant. *Clarke*, Q.C., for respondents.

From MacMahon, J.] YELLAND *v.* YELLAND. [March 15.

Benefit society—Certificate—Change in rules.

A certificate issued by a benefit society providing for payment to the member's "next of kin," is not affected by a subsequent change of the rules of the society omitting "next of kin" by that name, from the classes of persons to whom certificates may be made payable. Judgment of MACMAHON, J., affirmed.

Watson, Q.C., and *Moore*, for appellants. *Poussette*, Q.C., for respondents.

From Court of Revision.] [March 15.

IN RE TORONTO RAILWAY COMPANY ASSESSMENT.

Assessment—Street Railway—Rails, poles and wires—Highways.

The rails, poles and wires, of the Toronto Railway Company, used by them in operating their electric railway and laid and erected in and upon the public highways of the city of Toronto are subject to assessment under the Consolidated Assessment Act, 1892, 55 Vict., c. 48 (O). BURTON, C.J.O., dissenting.

Fleming v. *Toronto Street R. W. Co.*, 37 U.C.R. 116, has been overruled by *Consumers Gas Co.* v. *Toronto*, 27 S.C.R. 453.

Robinson, Q.C., and *Fullerton*, Q.C., for city of Toronto. *McCarthy*, Q.C., and *Laidlaw*, Q.C., for Toronto Railway Company.