

ARMOUR, C.J.]

[May 18.

RE TORONTO, HAMILTON & BUFFALO RAILWAY AND BROWN.

*Railway—Award—Appeal from—Weight of evidence—Improper reception and rejection of evidence.*

On an appeal from an award made under sec. 161 of the Railway Act, 51 Vict., cap. 29 (D), the learned Judge before whom the appeal was heard refused to interfere, being unable to say that the decision arrived at was wrong, and in view of the fact that the arbitrators resided at the place where the land was situate and were conversant therewith, and had the benefit of seeing and hearing the witnesses.

*Quære.*—Whether objections to the reception or rejection of evidence are properly subjects of appeal from an award under the Railway Act, or whether not rather matters for a motion to revoke the submission, or for a motion prior to the award to compel or prevent the reception of such evidence, and where the course pursued by the arbitrators amounts to misconduct.

*G. Lynch-Staunton*, for the appellant.

*D'Arcy Tate*, contra.

STREET, J.]

[May 6.

IN RE WILLIAM RODDICK.

*Insurance—Voluntary settlement—R.S.O. c. 136.*

William Roddick insured in a mutual insurance society by way of benefit certificates expressed to be payable to his mother, and by contract between himself and the society it was agreed that the benefit certificate should not be payable to any one else than the wife, children, dependents, father, mother, sister or brother of the insurer; and that the certificate could not be transferred or assigned by him to any one else than the above named, and that if he died without having made any further direction as to payment, the money should be paid to the above beneficiaries in the above order, if living.

William Roddick died intestate, his mother predeceasing him, and his two sisters claim as entitled by reason of the above contract to the policy moneys. His estate was insolvent and his administrator claimed that the money was available for the creditors.

*Held*, that the insurance amounted in effect to a voluntary settlement on the sisters of the insured, who though not within the protection of R.S.O. c. 136, were beneficiaries named in the policy, and it was not shown that the insured was not in a position to make a voluntary settlement at the time he effected the insurance or at any time.

*J. A. Paterson*, for the claimants.

*Duncan*, for the administrator.

STREET, J.

[May 7.

RE STONEHOUSE AND PLYMPTON.

*Municipal corporation—Drainage by-law—Engineer's report—Erroneous basis of fact.*

Motion to quash a by-law of the township of Plympton, providing for the repairing and deepening throughout of what was therein spoken of as the