

*Held*, also, that previous attempts to insure other persons for the benefit of the prisoners could not be received in the trial of this case.

*Oster*, Q.C., *D. J. O'Donohoe*, and *Kenneth Cameron* for the Crown.

*Norman Macdonald* for the prisoner *Welter*.

*John A. Robinson* for the prisoner *Hendershott*.

MEREDITH, C.J.]

June 28.

HENDRIE v. TORONTO, HAMILTON & BUFFALO R.W. CO.

*Railways—Lands injuriously affected—Right to compensation.*

The sections of the Dominion Railway Act, 1888, under the headings, "Plans and Surveys," and "Lands and their Valuations," apply as well to lands "injuriously affected" as to lands taken for the purposes of the railway.

It is no answer to a complaint by a landowner, that the company is proceeding without having taken the necessary steps under these sections, that he has the authority of the Railway Committee of the Privy Council for the execution of the works.

*Held*, also, that a by-law passed by the municipal council for granting aid to the railway, and the Validating Act, 58 Vict., c. 58 (C.) did not affect this question.

*Bruce* for the plaintiff.

*Oster*, Q.C., and *Carscallen* for the Railway Company.

*D. Saunders* for the contractor.

BOYD, C.]

[July 2

CONSUMERS' GAS CO. v. TORONTO.

*Taxation—Gas mains—Assessment Act.*

The mains of a gas company, laid beneath the surface of the public streets are assessable, such mains, with the underground soil occupied by them, being appurtenances to the central land upon which the manufacture is carried on, and subject to taxation as realty of the company.

*McCarthy*, Q.C., and *Müller*, Q.C., for the plaintiffs.

*Robinson*, Q.C., for the defendants.

### Chancery Division.

Divl Court.]

[May 27.

FAIRWEATHER v. OWEN SOUND STONE QUARRY CO.

*Master and servant—Negligence—Fellow servant—Liability at common law—Defective appliances.*

S., one of the directors of a quarry company, was appointed foreman of the works, with full powers of management, but subject to the directors' control, and to such duties as might be delegated to him from time to time. The plaintiff, one of the company's labourers, claiming that he had sustained injury by reason of S.'s negligence while acting under his instructions, brought an action at common law against the company.