

PRACTICE CONCERNING AWARDS.

recently held only to apply, to cases of reference by consent of parties, and it was thought that where the reference was under the special power of an Act of Parliament (as in the case of expropriation of lands by railway companies) the statute of William did not apply, and that the only remedy was by filing a bill in Chancery to get rid of the award, if the circumstances justified that course: see per Richards, C. J. C. P. in *Widder v. Buffalo and Lake Huron R. W. Co.*, 27 U. C. R. at p. 429. But by a recent decision of the Court of Appeal in England the provisions as to summary jurisdiction have been held applicable to railway references under the statute: *Rhodes v. The Airedale Commissioners*, L. R. 1 C. P. D. 402. It is said there that the appointment of an arbitrator is equivalent to a reference by consent. The Court of Appeal in this Province has declined to extend this authority to the case of an arbitration arising from one railway crossing another, because there by the terms of the Railway Act the arbitrators are to be nominated by one of the judges (R. S. Ont. cap. 165, s. 9, sub-s. 15). This decision, *The Great Western R. W. Co.*, and *the Credit Valley R. W. Co.*, is not yet reported.

The Legislature of Ontario have lately extended the summary jurisdiction of the Courts over awards still further. An appeal can now be had from awards in all cases of compulsory reference, and in all cases of voluntary reference, where it is agreed by the terms of the submission that there shall be an appeal. (See R. S. Ont. c. 50, ss. 192, 195, 197 and 205; *Walker v. The Beaver and Toronto Mutual Insurance Company*, 30 C. P. 211.) The first case of appeal from an award under this Section was *Re The Canada Southern Railway Co. and Norvall*, 41 U. C. R. 195, when Harrison, C.J., laid it down that it was not the duty of the Ap-

pellate Court to reverse the finding of the arbitrators on the weight of evidence merely, but that it was necessary to establish some misconduct, legal or otherwise, or the disregard of some legal principle. Inasmuch as the Statute giving the right of appeal indicates that the practice upon such appeal shall be the practice which obtain in appeals from the report of a Master in Chancery, it seems proper enough to hold that there should be no interference with the finding when there is evidence to support it,—as in the well-established rule by the Equity bench, in appeals from the Master. The rule laid down by Chief Justice Harrison has been approved and followed in very recent cases by Osler J., *Re The Hamilton and North-Western R. Co.*, and *Boys*, 44 U. C. R. 626, and *Re Colquhoun and the Town of Berlin*, Ib. 631. In the former of these cases this learned Judge, whose authority on matters of practice is of great weight, intimates his view of the proper mode of appealing against the award in railway matters,—that it should be by rule *nisi* and upon reading the evidence taken by the arbitrators and by them transmitted to the Court.

It has been decided that there can be no rehearing by the full Court by way of appeal from the decision on an award given by a single judge: *Crain v. Trustees of Collegiate Institute of Ottawa*, 43 U. C. R. 498. The only remedy is a direct appeal to the Court of Appeal under the provisions of R. S. Ont. c. 38, sec. 18.

LAW SOCIETY.

HILARY TERM, 43RD VICTORIÆ.

The following is the *resumé* of the proceedings of the Benchers in Hilary Term, 1880, published by authority of Convocation:—

FEBRUARY 2nd, 1880.

The Report of the Examiners on the Ex-