father's death the son lived with his mother, to whom, from time to time, till Feb., 1889, payments were made on account of the annuity.

Held, that the annuity was charged on the land; that it was, therefore, by virtue of s. 2 (3) of the Limitations Act, R.S.O. 1897, c. 133, rent within the meaning of that Act; that the payments to the mother, who was the natural guardian, were good, and that the statute did not begin to run till the last of them was made; that apart from the question of disability the right of action would have been barred at the expiration of ten years from that time; but that by ss. 43, 44 the time was extended for five years from the removal of disability, or for twenty years; and that, therefore, an action brought in Feb. 1900, was in time, and that six years' arrears could be recovered. Judgment of MACMAHON, J., 31 O.R. 504; 36 C.L.J. 215, affirmed.

Aylesworth, K.C. for appellants. *A. C. Macdonell* and *J. T. C. Thompson*, for respondents.

From Divisional Court.] [May 16.

KIRKPATRICK *v.* CORNWALL ELECTRIC RAILWAY.
BANK OF MONTREAL *v.* KIRKPATRICK.

Street railway—Mortgage—Future acquired property—Fixtures—Rolling stock—Execution—Company.

An electric street railway company, incorporated under the Ontario Joint Stock Companies Letters Patent Act, R.S.O. 1887, c. 157, and subject to the provisions of the Street Railway Act, R.S.O. 1887, c. 171, gave to trustees for holders of debentures of the company a mortgage upon the real estate of the company, together with all buildings, machinery, appliances, works and fixtures, etc., and also all rolling stock and all other machinery, appliances, works, and fixtures, etc., to be thereafter used in connection with the said works, etc. The by-laws of the directors and shareholders, (who were the same persons and only five in number) authorizing the giving of the mortgage directed it to be given upon all the real estate, plant, franchises and income of the company, and the debentures stated that they were secured by mortgage of the real estate, franchises, rolling stock, plant, etc., acquired or to be acquired:—

Held, that s. 38 of R.S.O. 1887, c. 157, does not restrict the power of mortgaging to the existing property of the company and that a company is invested with as large powers to mortgage its ordinary after acquired property as belong to a natural person; that the mortgage in terms covered future acquired property, and even if not authorized in this respect upon a strict reading of the by-laws had been acquiesced in and ratified and was binding. Judgment of a Divisional Court affirmed.

Held, also, that the rolling stock, poles, wires, etc., formed an essential part of the corpus of what must be regarded as an entire machine, and