which the owner was bound to retain to meet such liens should be computed upon the price payable to the original contractor *for the work done* by him.

Snelling, and *G. H. Ritchie*, for the lien holders.

A. Cassels, for the owner.

Ferguson, J.] [May 14.

GARDINER v. CHAPMAN.

Riparian proprietor—Canal—Polluting waters—Injunction—Rideau Canal—Rights of Riparian proprietors.

Held, that the plaintiff was entitled to an injunction restraining the defendant from constructing certain works which would interfere with the plaintiff's rights as a riparian proprietor on the banks of the Rideau Canal.

There was a continuous sheet of water from the plaintiff's land to the track of vessels navigating the canal, of sufficient depth to be navigable for boats of considerable size. This sheet of water was not part of the canal proper, though a portion of the river through the bottom of which the canal was constructed.

Held, that the plaintiff had the same rights in respect of this sheet of water as he had in respect of the canal under the Act 8 Geo. IV., cap. 1, sec. 157, which enacts that it shall be lawful for owners and occupiers of lands adjoining the canal to use any boats thereon for the purpose of husbandry, etc.

Walkem, Q.C., and *J. B. Walkem*, for plaintiff.

Britton, Q.C., and *McIntyre*, Q.C., for defendant.

Ferguson, J.] [June 11.

HILL v. HILL.

Administration — Accounts — Costs of establishing second will—Allowance to executor of first will—Tenant for life—Repairs—Costs.

The defendant being executrix under a first will paid out of the estate the costs of an action brought to test the validity of this will as against a subsequent will which resulted in the second will being established. The evidence at the trial showed that for many years the testator had been mentally and physically weak, and many witnesses thought that he was incapable of making a will at the time the second was made. Under an order of reference to take the accounts of the defendants as executrix under the first will the Master allowed to the defendant in her accounts the amount of costs paid.

Held, on appeal that the Master rightly allowed them.

The defendant was tenant for life under the will, and the testator further devised to her the income of all investments of which the testator died possessed for her own use and also the principal of such investments as she might require to use for her own benefit. She repaired the buildings on the land of which she was tenant for life out of the investments bequeathed to her, and the Master allowed her this sum in her account.

Held, that the amount was properly allowed.

The defendant took out probate under the first will and acted as executrix thereunder until the second will was established. The judgment in this case directed a reference to ascertain the amount with which she was chargeable, and an account of her dealings with the estate.

Held, that the costs of all parties, including the defendant, should be paid out of the estate.

Plumb, for the plaintiff.

Howell, for the defendant.

Ferguson, J.] [June 12.

CLARKE v. THE UNION FIRE INSURANCE CO.

Insurance—Lex loci contractus—Agency.

The defendants signed and sealed policies in blank and sent them to an agent in New York who, on effecting an insurance, filled up and delivered them. The policy in this case was delivered August 8th, 1880; the fire occurred August 10th, and the premium was paid by cheque August 11th, which cheque was accepted by the New York agent and forwarded to Toronto, the Co.'s head office, but was returned by the Co. and refused.

On an attempt to prove a claim under the policy in the Master's Office it was contended that the filling up and the issuing of the policy in New York (and the acceptance by the agent there of the premium—which was a cheque payable to the order of the Co.—brought the contract within the laws of the State of New York), would bind the Co., but the Master held (19 Can. L. J. 363) that the contract was made in Toronto, where the policy was signed and sealed; and on an appeal from the Master it was