

for a lump sum, and has not been performed, no part of the contract price is recoverable. The law as laid down by Lord Blackburn in *Appleby v. Myers* L.R. 2 C.P. 651 on this point is approved, viz., that a contractor for a lump sum who has not performed the stipulated work can only recover something under his contract where he has been prevented by the defendant from performing his work, or where he has made a new contract that he shall be paid for the work he has actually done, neither of which conditions were found to exist in the present case. The fact that the defendant had accepted the ship and sold it was held to be no ratification on their part of any contract for repairs made by their agent without their authority.

CANADA TEMPERANCE ACT, 1864, s. 17—CONSTRUCTION.

In *Wentworth v. Matien* (1900) A.C. 212, the Judicial Committee of the Privy Council (Lords Hobhouse, Davey, Robertson, and Sir R. Couch) have reversed a decision of the Superior Court of Quebec upon the construction to be placed on the Canada Temperance Act, 1864, ss. 15 and 17. The defendant had between June 9 and July 30, 1898, been convicted twenty-nine times for breaches of the Act, and penalties had been imposed on him, amounting in the aggregate to \$1,400. Having paid the fine in respect of the first conviction, he obtained a certiorari as to the second, and it was quashed on the ground that by s. 17 it was permitted to include any number of offences in one complaint, and that the maximum penalty for all offences committed within three months prior to prosecution was not to exceed \$100. The Judicial Committee was unable to agree with this construction of the Act, and held that the provision in s. 17 enabling several offences to be included in one complaint is permissive and not compulsory, and that s. 15 did not, as the court below assumed, fix \$100 as the maximum amount of penalties that could be imposed for all breaches of the Act for a period of three months preceding the prosecution. The order quashing the second conviction was therefore reversed.