

sale by him, and *Hastings v. Pearson* (1893) 1 Q.B. 62 was overruled.

ARBITRATION—UMPIRE—WITNESS CALLED BY UMPIRE—MISCONDUCT OF UMPIRE—EVIDENCE—REMOVAL OF UMPIRE—ARBITRATION ACT, 1889 (52-53 VICT. c. 49), s. 11—(9 EDW. VII. c. 35, s. 13 (ONT.)).

*In re Ensich & Zaretsky* (1910) 1 K.B. 327. This case is deserving of attention, because the Court of Appeal (Cozens-Lardy, M.R., and Moulton and Farwell, L.J.J.) has very strongly disapproved of the dicta of the late Lord Esher, M.R., in *Coulson v. Disborough* (1894) 2 Q.B. 316, and *In re Keighley* (1893) 1 Q.B. 405. In the former case he expressed the opinion that a judge might call a witness, and it would be discretionary whether a witness so called could be cross-examined by either party. In the second case he intimated that an arbitrator is not bound by the strict rules of evidence. In the present case upon a reference under an arbitration the umpire had undertaken, on his own responsibility, and without the consent of parties, to call a witness who gave evidence as to matters which one of the parties wished to rebut by evidence of witnesses in Rangoon, and asked an adjournment of the reference for that purpose, which was refused. The Court of Appeal held this to be improper conduct on the part of the umpire, and they disapproved of the dicta of Lord Esher, in the above cases, and on the contrary were of the opinion that arbitrators are bound by the ordinary rules of evidence, and that neither an arbitrator nor a judge has any power to call a witness on his own motion without the consent of parties. In this case the umpire had also refused to state a case unless paid £150, and this also was held to be misconduct, and he was ordered to be removed, and the judgment of the Divisional Court (Darling and Lawrence, J.J.), was reversed.

CRIMINAL LAW—CONSPIRACY—AGREEMENT TO INDEMNIFY BAIL—ABSENCE OF WRONG INTENT—ACT CONTRARY TO PUBLIC POLICY.

*The King v. Porter* (1910) 1 K.B. 369. This was a prosecution for conspiracy to commit an unlawful act. The act being the indemnification of bail given in a criminal case. The facts being that one Clark was charged with felony, and Porter and one Brindley together became bail for the appearance of Clark to stand his trial, and Porter and Brindley then entered into an agreement with Clark, that Clark should indemnify them against