Contract—When made by a number of persons—Severalty of interest—Whether contractors can be sued separately—Where contract ambiguous.

(April, 1875.)

Where the interests of a number of parties to a contract are distinct and separate, and a covenant made by them is not unmistakeably joint, but ambiguous, they must be sued separately.

Therefore, where T. contracted with A. and eight other persons to raft separately and deliver at a certain place lumber which belonged to them individually, for which the latter agreed to pay 65 cents per thousand; and it was also provided that if any of the parties failed to pay the amount owing by them when due, T. could sell sufficient of the lumber belonging to said party or parties to pay the amount due.

Held, That this was a several contract on the part of A. and the other owners of the lumber and that a joint action would not lie against them.—(*George True and Gideon Stairs* v. *Atherton et al.*, p. 90.)

Arbitration and award—Improper conduct of arbitrators—Receiving information after close of evidence—Where attorney of one party is employed to draw award—Setting aside—Answering affidavits—Hearsay.

(April, 1875.)

An application, made to set aside an award, was supported by an affidavit of M., against whom the award was made, stating that the attorney of the opposite party had been employed to draw up the award, and he did, as M. was informed and believed, search at the Record Office, after the evidence was closed, and used information obtained there to assist in making up the award, and that the award was not the independant award of the arbitrators. The arbitrators made affidavits in answer, stating that they determined on their award, informed the attorney how they wished it drawn up, and they then read it carefully over and signed it; that they knew nothing of the search of the records, and were not in any way influenced in their decision.

Held, (per Ritchie, C. J., and Allen, Weldon and Fisher, J. J., Wetmore, J., *dissenting*), that this formed a sufficient answer to the charges made, and that it was not necessary for the arbitrators to enter minutely into a specific denial of all the charges set forth in the affidavits on which the rule was granted.

Per Wetmore, J., that the Court having granted a rule calling on the opposite party to show cause why the award should not be set aside, it was incumbent on him to contradict or satisfactorily explain all the charges put forward, although they were founded on hearsay and belief.

It is not desirable to employ the attorney of one of the parties to draw up an award; but this, of itself, is not sufficient to cause it to be set aside.—*Ex parte Milner; In re Boltenhouse*, p. 96.

Bribery and Corruption and Election Petition Act, 1869—Election—Agency—Whether Parliamentary law of agency in force in this Province—Evidence—Statements of Agent—Whether admissible.

(April, 1875.)

The Common Law of Parliament, or, in other words, the Parliamentary Law of Agency, is in force in this Province, and is to be acted upon in administering the Bribery and Corruption and Election Petition Act, 1869.

A conversation with a witness, or the admission of an agent, had and made on the day of the election, immediately after the close of the polls, is admissible in evidence.—*Duffy, petitioner*, v. *Ryan and Rogers, respondents*, p. 110.

Statute—Construction of—Where acts relate to same subject matter — Whether those repealed can be looked to in construing similar words in subsequent Act—Pavement—Where meaning given to it by Legislature different from technical sense.

(June, 1875.)

Acts relating to the same subject matter, though repealed, may be referred to for the purpose of giving a construction to similar words used in the subsequent Act.

Where the Legislature by several statutes passed at different times authorized a City Council to make or repair "pavements of stone, deal or plank," and to assess the owners of property benefited thereby for the expenses thereof, and subsequently, by an Act repealing the previous enactments, gave power to make or repair any "flagging or pavement" (omitting words of description), and to make assessments, &c., it was held by the Court that the word "pavement" was not to be understood in its technical sense, but in the sense which had been applied to it by the Legislature in the previous Acts, and that it included either stone, deal or plank.—*Ex parte Lugrin et al.*, p. 125.
