

permits have been granted as follows: One house, three tenements, on Montana street, for J. A. Allard—architect, Wm. Tremblay; carpentry, J. A. Allard. One dwelling, corner Dorchester and Montcalm streets, stone front—architects, Cox & Amos; masonry, Labelle & Payette; carpentry, Lambert & Son; brick work, Labelle & Payette. One building on Stanley street for Roswell Fisher—architects, Brown & MacVicar masonry, Geo. Morrison & Co., carpentry, Simpson & Peel; bricklaying, Amos Cowen

#### TENDERS BY CONTRACTORS.

Care should always be taken not to accept a tender absolutely, but only conditionally on the builder signing a contract in a prescribed form and also, in some cases, finding sureties, to be approved by the employer, for the due execution of the work. A tender made by a contractor, and an acceptance by the employer, constitute in law a binding contract when the acceptance is unqualified, and no new terms are contemplated. An intimation in the written acceptance of a tender that a contract will be afterwards prepared, does not prevent the parties from becoming bound to perform the terms in the tender and acceptance respectively mentioned, if at the time when the documents were signed the parties had a contracting mind, and it was their intention thereby to enter into an agreement, and the preparation of the contract was contemplated merely for the purpose of expressing the agreement already arrived at in formal language. A, a railway contractor, met B and several others in order to receive tenders with reference to certain work. A read a specification with reference to the work, after which B and the others handed in their tenders. B's tender was signed with his name, but there was no evidence that it was in his handwriting. Held, notwithstanding, that such tender taken with the specification sufficiently proved the contract (*Allen v. Yoxall*, 1 C and R 315). The following case illustrates when there is a mere proposal, and not a binding contract. Guardians issued an advertisement stating that they would receive tenders for the supply of the workhouse with meat for three months, from 30 to 50 stone, that tenders were to be forwarded, and that all contractors would have to sign a written

contract after acceptance of the tender. A butcher wrote to the Guardians as follows: "I propose to supply your houses with meat according to advertisement for the next six months at 6d. per pound." His proposal was accepted and he was informed that he was appointed butcher, upon which he immediately declined the appointment. Held, that the transaction amounted merely to a proposal for a contract, and that there was no binding agreement till a written agreement had been signed (*Kingston-upon-Hull Governors v. Peitch*, 10 Ex. 611; 24 L.J., Ex. 23.)

The person inviting tenders may at any moment revoke his invitation; consequently the expenses of making a tender or attending a sale cannot be recovered from the person who invite the tender or advertise the sale. If a builder obtains acceptance of his tender by offering a commission to the employer's architect or other agent, the employer can either avoid

the contract, or if he has gone on he can, besides recovering the bribe from the guilty agent, further recover damages from the bribing tenderer. But he is not entitled to follow the money received as a bribe through the account of the agent as trust money. If the tender is for a contract with a public body both the builder and the architect, surveyor, or other employee, or member of the public body, are liable to criminal proceedings for a corrupt practice under the Public Bodies Corrupt Practices Act, 1889. The employer is of course liable for any fraud or misrepresentation made by him in inviting the tenders, and if the representation was material and acted on the mind of the party tendering, such person tendering may bring an action for rescission of the contract, but when a contract has been acted upon by a party to it with a knowledge of all the facts, he has elected and cannot avoid it when the result has turned out to his disadvantage.

(To be Continued)

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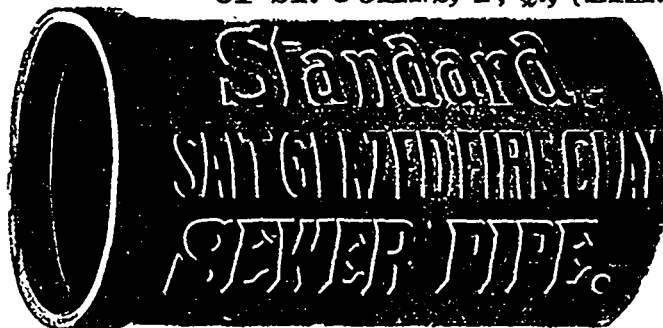
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