

Held, also, that a reduction of the contract price by an amount equal to the difference in value between the bad stuff and that which should have been used was not an adequate measure of the set-off to which the proprietors were entitled.

The contract provided that no extras were to be allowed unless expressly ordered and payments for the same expressly agreed for in writing by the proprietors or architects.

Held, that extras could not be allowed unless a writing was proved.

F. E. Hodgins for plaintiffs.

James Reeve, Q.C., for defendant, Colville.

BOYD, C.]

[Nov. 7.

BICKERTON v. DAKIN.

Mechanics' lien—Partnership—Claim of lien registered in name of, after dissolution—R.S.O., c. 126, ss. 16, 19—"Claimant"—"Person entitled to the lien"—53 Vict., c. 37—Jurisdiction of High Court—Joining liens—Statement of claim under 53 Vict., c. 37, s. 2—Amendment.

A claim of lien under the Mechanics' Lien Act was registered, and proceedings to enforce it were taken in the name of a firm which had been dissolved, and one of the members of which had died prior to the registration. The materials for which the lien was claimed were, however, all furnished by the firm before the dissolution or death, and it was provided that the dissolution was not to affect this and other engagements.

S. 16 of R.S.O., c. 126, under which the lien was registered, speaks of the "claimant" of the lien, and s. 19 of the "person entitled to the lien." The Interpretation Act, R.S.O., c. 1, s. 8 (13), shews what the word "person" shall include, and does not mention a "firm" or "partnership."

Held, that the lien attached on the land and was validly continued; the difficulty as to the word "person" was overcome by the use of the alternative word "claimant," which extended to a partnership using the firm name in the registration of the lien.

Under the Act to Simplify the Procedure for Enforcing Mechanics' Liens, 53 Vict., c. 37, it is competent to join liens so as to give jurisdiction to the High Court, though each apart may be within the competence of an inferior court.

The plaintiffs in proceeding under 53 Vict., c. 37, to enforce their lien filed with a Master as the "statement of claim" mentioned in s. 2, a copy of the claim of lien and affidavit registered, verified by an affidavit, and the Master thereupon issued his certificate.

Held, that if the "statement of claim" filed was not in proper form, inasmuch as it contained all the facts required for compliance with the Act, an amendment *nunc pro tunc* should be allowed.

Masten for the plaintiffs.

Aylesworth, Q.C., for the defendant Nesbitt.

Practice.

BOYD, C.]

[Nov. 4.

IN RE ANCIENT ORDER OF FORESTERS AND CASTNER.

Security for costs—Interpleader.

Security for costs may be ordered in interpleader proceedings.

Swain v. Stoddart, 12 P.R., 490, approved and followed.

Belmont v. Aynard, 4 C.P.D., 221, 352, distinguished.

The party substantially and in fact moving the proceedings, whether plaintiff or defendant in the interpleader issue, should, if resident out of the jurisdiction, give security to the opposite party.

A. G. Chisholm for the claimant Castner.

Hellmuth for the claimant Keishner.

BOYD, C.]

[Oct. 22.

PATERSON v. DUNN.

Pleading—Slander—Particulars.

In an action of slander, the statement of claim, after various specific allegations, charged that at divers times during the years 1888, 1889, and 1890, and to many people in and about the city of T., the defendant falsely and maliciously repeated the said slanders and words of like effect, and spoke of the plaintiff words conveying the meaning the said slanders and the said words conveyed,

Held, that this was embarrassing and should be stricken out unless the plaintiff elected to amend upon payment of costs.

F. W. Garvin for plaintiff.

Middleton for defendant.