

## Chancery Division.

MEREDITH, J.]

[Nov. 28.]

TOWNSHIP OF BURFORD v. CHAMBERS ET AL.

*Arbitration—Injunction restraining arbitrators acting—Jurisdiction of High Court—Arbitrator, solicitor for parties.*

The High Court has power to prevent an incompetent arbitrator from acting without waiting until the award is made, though perhaps the better course is to apply for leave to revoke the submission if another arbitrator be not substituted.

*Malmesbury R.W. Co. v. Budd*, 2 Ch.D. 113, and *Beddow v. Beddow*, 9 Ch.D. 89, followed.

A barrister and solicitor who had acted as counsel for the husband on an indictment and trial for obstructing an alleged highway claimed by his wife to be her property, and who had written a letter concerning the matter as solicitor for both husband and wife, was restrained from acting as arbitrator.

*Vineburg v. The Guardian Fire & Life Assurance Co.*, 19 A.K. 293, followed.

*Herbert Mowat* for the motion.

*S. A. Jones, contra.*

BOYD, C.]

[Oct. 23]

THOMPSON ET AL. v. SMITH.

*Will—Devise—"My lawful heirs"—Time when heirs ascertained.*

A testator, after a gift to his daughter and her mother, for their joint lives, and to the survivor of them, directed that "at the decease of both the residue of my real and personal property shall be enjoyed by, and go to the benefit of, my lawful heirs." At the death of the testator his daughter was his only heir.

*Held*, that the testator had himself excluded his daughter from being treated as one of his heirs, and by the expression "my lawful heirs" must be held to have meant the persons who at the time of the death of the last survivor of his wife and daughter should then be his heirs at law.

*Wyld* for the plaintiffs and McTavish.

*Gara, Q.C.*, for the defendants.

## Practice.

MEREDITH, C.J.]

[Nov. 17.]

MALCOLM v. RACE.

*Discovery—Action for penalties—Close of pleadings—Notice of trial.*

The plaintiff is not entitled to examine the defendant for discovery in an action for penalties under the Ontario Elections Act, 1892.

*Hunnings v. Williamson*, 10 Q.B.D. 459, and *Martin v. Treacher*, 10 Q.B.D. 507, followed.