

BUILDING CONTRACT—ARCHITECT'S CERTIFICATE—NEGLIGENCE—ARBITRATOR.

Chambers v. Goldthorpe (1901) 1 Q.B. 624, was an action brought by an architect to recover for professional services; the defendant admitted the claim, but counterclaimed for damages occasioned by the plaintiff's negligence in giving a certificate as to work done under a building contract. The contract which was one entered into between the defendant and a third party for the building of certain houses, provided for payments on account as the work progressed, and for payment of the balance after completion of the work upon the certificate of the architect shewing the final balance due to the contractor, which was to be final and conclusive evidence of the work having been duly completed. The defendant had employed the plaintiff as architect, and claimed that he had been guilty of negligence in giving the certificate. The plaintiff contended as a matter of law that he was in the position of an arbitrator, and as such was not liable for negligence, and it was agreed that the question of law should be first disposed of before entering on the question whether there was in fact any negligence. Mathew, J. on appeal from the County Court held that the plaintiff was not liable; and the Court of Appeal (Smith, M.R. and Collins and Romer, L.JJ.) affirmed his decision on the ground, contended for by the plaintiff, that he was in the position of an arbitrator.

LUNATIC—PAUPER LUNATIC—MAINTENANCE—RECEIVER—DEBT.

In re Taylor, Edmonton v. Deely (1901) 1 Ch. 480, the Court of Appeal (Rigby and Stirling, L.JJ.) overruled a decision of Kekewich, J. A pauper lunatic, while being maintained by the guardians of the poor, became entitled to a fund, and on the application of the guardians, who claimed six years' arrears of maintenance, a receiver of the fund was appointed and he was directed to apply part of it towards the arrears of maintenance, and the balance towards the future maintenance of the lunatic. Before the fund was exhausted the lunatic died and the guardians then claimed to be paid the arrears out of the balance of the fund. Kekewich, J. held they were not entitled and he dismissed their application, but the Court of Appeal held that the previous order was no estoppel to the guardians, and that they were entitled to recover the arrears due out of the lunatic's estate.