

REPORTS AND NOTES OF CASES

Dominion of Canada.

EXCHEQUER COURT.

Davidson, J. }
Pro h&c vice. }

THE QUEEN v. OGILVIE.

[Nov. 16, 1897.

Contract—Conflict of law—Appropriation of payments—Receipt—Error—Rectification.

The doctrine that where a contract is made in one Province in Canada, and is to be performed either wholly or in part in another, then the proper law of the contract, especially as to the mode of its performance, is the law of the Province where the performance is to take place, may be invoked against the crown as a party to a contract.

2. While both the English law and the law of the Province of Quebec give to the debtor owing several debts the option of appropriating any payment he may make to any particular one of such debts, provided he exercise his option at the time of such payment, yet under the Quebec law where the debtor does not exercise such option, and thus gives a right to the creditor to appropriate the payment, the creditor must exercise his option immediately upon payment being made, and cannot delay exercising it up to the time of trial as he may do under the doctrine of the modern English cases.

3. Where a person owing several debts has accepted a receipt from his creditor by which a specific imputation is made, he may afterwards have the payment applied upon a different debt by showing that he had allowed the former imputation to be made through error, unless the creditor has been thereby induced to give up some special security.

The Solicitor-General, *J. N. Greenshields*, Q.C., *E. L. Newcombe*, Q.C., for the plaintiff. *J. S. Hall*, Q.C., *W. D. Hogg*, Q.C., for the defendant.

Burbidge, J.]

WOODBURN v. THE QUEEN.

[Nov. 29, 1897.

Contract—Statutory requirements—Informality—Ratification by the Crown.

A contract entered into by an officer of the crown, empowered by statute to make such a contract in a prescribed way, although defective in respect of the statutory requirements, may be ratified by the crown.

R. F. Sinclair, for suppliant. *W. D. Hogg*, Q.C., for respondent.

THE QUEEN v. KILROE.

Information of intrusion—Possession and mesne profits—Joinder of claims—Judgment—Costs.

Rule 21 of the General Rules of Practice on the Revenue side of the Court of Exchequer in England made on the 22nd June, 1860, which prohibits the joinder of claims for the recovery of mesne profits or damages in an infor-