

tion, both of law and fact, which can affect the final decision of the cause, is included in the authority of the arbitrators, and is matter proper for their determination. *Truesdale v. Straw*, 58 N. H. 207; *Sanborn v. Murphy*, 50 N. H. 65; *Pike v. Gage*, 29 N. H. 461; *Johnson v. Noble*, 13 N. H. 286; *Walker v. Sanborn*, 8 Greenl. 288; *The Boston Water Power Co. v. Gray*, 6 Met. 131; 2 Story's Eq., s. 1454. The submission provided for an award by a majority of the arbitrators; and all having heard the parties and their evidence, the award of the majority is sufficient. *Plummer v. Sanders*, 55 N. H. 23; *Carpenter v. Wood*, 1 Met. 409; *Maynard v. Frederick*, 7 Cush. 247; *Cumberland v. North Yarmouth*, 4 Greenl. 459, 468.

Bill dismissed.

STANLEY, J., did not sit: the others concurred.

STATE v. WILSON.

Upon an indictment for breaking and entering and stealing, the prisoner upon conviction may be sentenced under G. L., c. 279, for breaking and entering with intent to commit larceny.

INDICTMENT, for breaking and entering a store, and stealing therefrom one bank bill. The respondent demurred, on the ground that no offence punishable under the General Laws was charged in the indictment, the punishment prescribed by statute (G. L., c. 279) being for breaking and entering with intent to commit larceny.

Sulloway & Topliff, for the defendant.

The indictment charges no crime or offence under the existing statute. Chapter 279 of the General Laws is confined entirely to the intent. The statute having made the intent the gist of the offence, the intent must be charged.

Burns, solicitor, for the state.

CLARK, J. The indictment is sufficient. An intent to commit larceny is included in the charge of stealing. The charge of breaking and entering and stealing is equivalent to an averment of breaking and entering with intent to steal. *Jones v. State*, 11 N. H. 269; *State v. Moore*, 12 N. H. 42; *State v. Ayer*, 23 N. H.

301; *Commonwealth v. Hope*, 22 Pick. 1; Wharton Cr. Law 1613; 2 Bishop Cr. Law 115.

Demurrer overruled.

BINGHAM, J., did not sit: the others concurred.

SAWYER v. GLEASON.

Owners of land, who for several consecutive years have paid its taxes, assessed in a certain form, without requesting a change of the form, cannot object to the same form, followed by the assessors in taxing the same land the next year,—the assessors being authorized to act upon the inference, naturally drawn from the conduct of the owners, that the form is satisfactory to them.

An error or uncertainty of an immaterial statement of the value of property in a tax assessment does not invalidate the tax.

Figures separated by a decimal point, in the ordinary method of writing dollars and cents, with no other mark, are understood in the sense indicated by the point, the context, and the subject-matter.

Legal objections, that can be obviated at a trial, are ordinarily understood to be waived if not made known at the trial.

WRIT OF ENTRY, for an undivided half of a tract of land in Dublin. Facts found by a referee. The premises were bought in May, 1864, by William I. Sawyer and Eli Thomas, who took a deed in which the grantees were the plaintiff, and Richard Thomas. The grantees and the purchasers have, all the time, been non-residents. The premises were improved land, taxable as non-resident, and from 1864 to 1873 were assessed to Eli Thomas, who claimed to be the owner, and who paid the taxes annually during that period, being repaid one half of them by William I. Sawyer. In 1873 the tax was assessed as usual, in this form:

Persons taxed	Description	Total value	Reduced value	Town, state & county tax	Highway tax
Eli Thomas	Jack Bemis farm	600	300	6.00	1.80

For non-payment of this tax, there was a tax sale of the land to the defendant.

Lane, for the plaintiff.

Faulkners & Batchelder, for the defendant.