

ferred by the Act to try and determine such charges being conferred on the Superior Court held by one judge thereof, as provided for by sects. 272, 273, 274 and 292 of the Act.

2. That the jurisdiction of the Superior Court sitting in Review is limited, by the Controverted Elections Act of 1875, to the hearing of the parties to an election petition and the determination of the issues raised thereon between the parties to such petition, including charges of corrupt practices against any of the candidates, at the election, who are made parties to the Controverted Election petition.

3. That as the appellant was neither an elector nor a candidate, nor a returning officer, nor a deputy returning officer, at the election, he could not be, and in fact was not, a party to the election petition, and was not amenable to the jurisdiction of the Court of Review, as a Court of original jurisdiction.

4. That the power conferred by sub-section 4 of section 89 of the Controverted Elections Act, to determine all matters arising out of the election petition, refers to such matters only as are in issue on the election petition between the parties thereto, and does not extend to collateral and independent issues with parties unconnected with the election petition, such as charges of corrupt practices against persons who were not candidates at the election and are not parties to the election petition.

5. That the Superior Court sitting in Review had no jurisdiction to hear and determine, as a Court of first instance and without appeal, the charges of corrupt practices against the appellant; the Superior Court held by one judge or a judge thereof having sole jurisdiction in the matter, subject to a review before three judges and to an appeal to this Court as provided for with regard to judgments rendered by the Superior Court.

6. That an appeal lies to this Court from every judgment rendered by the Superior Court sitting in Review for excess of jurisdiction, and that that part of the judgment of said Court by which the appellant was found guilty of corrupt practices and con-

demned to pay two fines of \$200 each, with costs and imprisonment in default of payment, is *ultra vires* and must be set aside, and the record returned to the Superior Court, in order that the proceedings may be continued, as if the case had not been heard, nor adjudicated upon, by the Court sitting in Review.—*McShane & Brisson, Dorion, Ch. J., Tessier, Baby, Church, Bossé, J.J., Jan. 25, 1890.*

Jury trial—Insufficient assignment of facts—Answers—New definition of facts ordered.

Held:—Where both parties move for judgment on a special verdict, and there is no motion for a new trial, nevertheless, on appeal, if it appear to the Court that the facts as defined for submission to the jury were inapplicable and insufficient to enable a correct verdict to be rendered thereon, and that the answers of the jury were insufficient and contradictory to the extent that no correct judgment could be rendered thereon for either party, the Court of its own motion may set aside the judgment, and send the parties back to the Court below, to proceed anew to a proper definition of facts, for submission to a jury to be summoned by a *venire de novo*.

The condition of an accident policy, in favor of members of a firm of *McL. & Co.*, was: "Provided that on either of the above named members *quitting the said firm*, this insurance shall cease on his person, etc." The jury were asked: "3. Were *McL. & Co.* dissolved on or about the 10th April?" To which they answered, "Yes; but *J. S. McL.* had a continued and active interest in the business." "4. Did *McL. & Co.* in that month publicly advertise that *J. S. McL.* had retired and that a *new firm* had been formed?" To which they answered, "Yes." "5. Was *J. S. McL.* a member of *McL. & Co.* on the 18th November?" (date of his death by drowning). To which they answered, "No, but had an interest in profits of."

Held:—2. That inasmuch as the jury were not asked, and did not state, in the precise words of the condition, whether *J. S. McL.* had "*quit the firm*" on the 18th November, and their answers were insufficient to enable