Lessard's statement is not explicit. He asked defendant if he had said that Blackburn put the money in his pocket. He avoided affirming what his suspicions might fairly be, and answered, "Je me suis aperçu qu'on était joué." This is not an indication of malice, and it certainly does not prove that the words attributed were used by Cloutier.

Considerable irregularities, each small in itself, are established, but that were evidently destructive of any good administration, and if the mayor attributed them to drink, having once found him in his bed nearly drunk at 2 p.m., along with what was said, I don't think his indiscretion was great. There is no evidence of positive malice or ill-will, except what may be presumed to arise from the parties being of different political opinions. I am not prepared to admit that to the numerous advantages of popular elective institutions, we are to add this one, that a difference of views as to a candidate is to furnish a presumption of malice.

The judgment is reversed with costs.

COURT OF QUEEN'S BENCH.

QUEBEC, December 7, 1882.

MONK, RAMSAY, TESSIER, CROSS & BABY, JJ.

COTÉ, Appellant, and SAMSON, Respondent.

Opposition for ten cents — Discretion of Court— Appeal.

A judge of the Superior Court exercises his discretion wisely, in setting aside an opposition to a seizure, based on the fact that the costs had been taxed erroneously ten cents too high,—and a judgment in Review, reversing such a judgment in first instance, will be reversed in Appeal. (Tessier, J., dissenting.)

COURT OF QUEEN'S BENCH.

QUEBEC, December 7, 1882.

DORION, C.J., RAMSAY, TESSIER, CROSS & BABY, JJ.

REYNOR et al., Appellants, & THOMPSON, Respondent.

Right of accession—C. C. 434, 435.

This case gives rise to a question of some interest to holders of timber licenses and to settlers on Government lands. Appellants were settled on several lots of Government land. They had paid the price, $653.10, and were only to pay a sum, not then determined, for occupation. No patent or location ticket issued. This was in July, 1879. In December, 1880, respondent obtained a license to cut timber covering these lots. Appellants cut a quantity of timber manufactured into logs, and drew it to the *jetée* where it was seized by respondent. The Court below held the seizure good, and condemned the appellants to deliver up the wood or to pay respondent the value of the logs, $1,249.45.

The Court of Appeals maintained the seizure, and condemned appellants to surrender the logs or to pay the value of the timber, not of the logs, namely, $310. See articles 434 and 435 C.C.

COURT OF QUEEN'S BENCH.

MONTREAL, NOV. 28, 1882.

MONK, RAMSAY, TESSIER, CROSS & BABY, JJ.

CHARLEBOIS et al. (defendants below), Appellants, & CHARLEBOIS et vir (plaintiffs below), Respondents.

Action to set aside deed of partition of succession— Fraud.

CHARLEBOIS (defendant below), Appellant, & CHARLEBOIS et al. (plaintiffs below), Respondents.

Action to rescind deed of sale of right of succession —Plaintiff must offer back price received.

RAMSAY, J. There are two appeals with titles almost identical. They are intimately connected but not united. They were argued together. One bears the number 123, the other the number 449.

The former of these cases is an action by one Jane Charlebois, wife of one Dosithé Allard, to to set aside a *partage* of the intestate succession of her late brother Arsène Charlebois, to which she was a party, and bearing date the 4th of November, 1870.

The action was only taken out on the 4th of June, 1879, after the marriage of Jane Charlebois to Allard. It sets up with considerable amplification that the inventory was made by the appellant Hyacinthe Charlebois, that he had all his late brother's property in his hands, that he and his brother Arsène were co-partners, under a deed of partnership which is produced, that he estimated the real estate, and in fact that the other members of the family had trusted him entirely in all these matters. That being so trusted he had taken the opportunity to