

their Lordships think it right to make no order as to the costs of these appeals.

SUPERIOR COURT.

MONTREAL, January 21, 1882.

Before JOHNSON, J.

JOSEPH DANSEREAU, petitioner, and ABRAHAM BERNARD, respondent.

Quebec Controverted Elections Act, 1875—Petition—Deputy Returning Officer—Security for Costs.

Where an election petition under the Quebec Controverted Elections Act against the candidate returned, charges illegal acts against a deputy returning officer by name, who does not appear in the suit, the respondent cannot ask for any security other than that which is required to be given upon a single petition.

A deputy returning officer against whom nothing is prayed for by the petition, and who does not appear, is not a respondent within the meaning of the Act.

The case came up on a preliminary exception to a petition contesting the return for the Electoral District of Verchères.

PER CURIAM. The petition in the present case, with a certified deposit of \$1,000, as required by law, was filed on the 5th instant, and it alleged that the candidates had been the respondent Bernard, and Joseph R. Brillon, the latter having the majority according to the reckoning of the returning officers; but that on a recount before a Judge, Bernard was found to have the greatest number of legal votes, and was so returned, under the law, to the Clerk of the Crown in Chancery.

Then the petition alleges against the return of Bernard a great number of grounds for avoiding the election, and which I need not now notice, with the exception of one in particular, which sets forth that several deputy returning officers incorrectly counted ballots and rejected ballots legally given for Brillon, and admitted ballots illegally given for Bernard, so as to affect the result injuriously to the former. Then the petition goes on to say that the election was irregularly and informally conducted in respect of the mode of voting, and of reckoning the ballots, and marking them in a way to make it apparent for whom the electors had voted. All this is charged against certain deputy returning officers not named, with the exception of one—a Mr. Louis A. Bousquet:

and the conclusion of the petition is that the election may be avoided by reason of the acts of the candidate and of his agents, and also by reason of the illegal acts and irregularities of certain deputy returning officers not named, with the exception of one of them named Bousquet. There are other conclusions as to personal disqualification both of the candidate returned, and of those of his partisans who may be shown to have acted corruptly; and costs are asked against Bernard only; and Bernard alone has appeared; and has made a preliminary objection alleging that the petition constitutes several persons respondents, *i. e.*, Bernard, the candidate returned, the returning officer, and the deputy returning officer, Bousquet. This is a mistake, both as regards the fact, and as regards the law. As to the fact, there is not a word in the petition about the misconduct of the returning officer, and as I have said already, none of the deputies are mentioned by name except Bousquet, who is merely alleged to have acted irregularly, and to have vitiated the election of the successful candidate; and even against Bousquet there is no conclusion taken whatever,—no condemnation asked; and he has neither made any preliminary objection, nor even filed an appearance. The objection, as I have already said, is made by Bernard alone.

Now as to the very interesting point of law that was raised and discussed so thoroughly by the learned counsel on either side, it was this: It was said that the law made these deputies respondents, and also that, as matter of law, there are as many petitions as persons who are made respondents; and the 28th and 29th sections of the Act were relied upon to show that the deposit is insufficient, and that the petition should consequently be dismissed. Now, those sections say, (29) that whenever an election petition complains of the conduct of a returning or deputy returning officer, such officers shall, for all the purposes of the Act, except their replacement by other respondents under sect. 112, be deemed to be respondents; and section 28 had already said that several persons may be made respondents to the same petition, and their cases may, for the sake of convenience, be tried at the same time; and it added that "as regards the security required by sections 26 and 27, and for all other purposes of this Act, such