

From Divisional Court.] WILSON v. MANES.

[June 29.

*Municipal elections—Returning officer—Refusal to give ballot paper to voter—"Wilful Act"—Absence of malice or negligence—Consolidated Municipal Act, 1892, s. 168.*

A returning officer at a municipal election refuses at his peril to give a ballot paper to a person claiming the right to vote, and if that person is in fact entitled to vote the returning officer's refusal is a wilful act within the meaning of 168 of Consolidated Municipal Act, 1892, and renders him liable to the voter for the statutory penalty without proof of malice or negligence. Judgment of a Divisional Court, 28 O. R. 419, affirmed, MACLENNAN, J. A., dissenting on the ground that on the evidence there was no refusal of the ballot paper.

Aylesworth, Q.C., for respondent.

From Divisional Court.] SMITH v. SMITH.

June 29.

*Contract—Specific performance—Parent and child—Agreement to compensate—Improvements.*

An appeal by the defendant from the judgment of a Divisional Court, reported 29 O. R. 309, was argued before Burton, C. J. O., Osler, Macleennan, Moss, and Lister, JJ. A., on the 9th of May, 1899, and on the 29th of June, 1899, was dismissed with costs, the Court agreeing with the reasons for judgment given in the Court below.

W. R. Riddell, for appellant. Wells, Q.C., for respondent.

From McMahon, J.]

[June 29.

MCDONALD v. LAKE SIMCOE ICE COMPANY.

*Ice—Water and water courses—Constitutional law—Public harbour.*

The plaintiff was the owner of a lot bounded by the water's edge of Lake Simcoe and also of the adjoining lot covered by the waters of that lake there not being in the patent of either lot any special reservation of right of access to the shore :

*Held*, that he was entitled to the ice which formed upon the water lot and had the right to cut and make use of it for his profit ; that no other person was entitled to cut and remove the ice except in the bona fide and advantageous exercise of the public easement of navigation ; and that the defendants were not exercising that easement when they cut channels through the plaintiff's ice in which to float to the shore blocks of ice cut by them beyond the limits of the plaintiff's water lot. Judgment of MACMAHON, J., 29 O. R. 247, reversed, OSLER, J. A., dissenting.

*Held*, also, OSLER, J. A., expressing no opinion, that the locus in quo, a small bay in Lake Simcoe, at which there was a wharf where, with the permission of the owner, vessels used to call, but no mooring ground and