

Quære, whether defendant should not get the costs of quashing conviction, made to test the law in such a case.

COMMON PLEAS DIVISION.

Rose, J.] [Dec. 3.]

THE CORPORATION OF STRATFORD V.
WILSON.

Municipal Corporations—Agreement with officer to account for fees received outside of his office—Validity.

The plaintiffs appointed the defendant chief of police of the Town of Stratford at a named salary, but that he should account for, and pay over to the plaintiffs, all fees received by him from the county as a reward for services performed by him as a county constable.

Held, that under the 5th and 6th Ed. VI. ch. 16, and subsequent acts in force in this Province, the agreement to account for such fees was invalid.

Woods and Smith, for the plaintiffs.
Idington, Q.C., for the defendant.

Rose, J.] [Dec. 9.]

MACDONELL V. ROBINSON.

Libel—Defence, sufficiency of—Demurrer.

Action against the defendant for a libel on the plaintiff published in a newspaper called *The Week*. The defence set up was that the plaintiff had for some time prior to the alleged defamatory publication addressed open letters to the public through the medium of the public press, and had invited public attention to his (the plaintiff's) character and position as a solicitor and barrister, and had challenged public criticism upon his conduct in connection with the subject-matters referred to in the said article, and such criticism invited by the plaintiff had been made, and had been made in various newspaper articles and letters and correspondence, from time to time, immediately prior to the said article, and such article was a moderate expression of opinion thereupon and in no way damaged the plaintiff as a barrister and solicitor. And the defendant further said that the alleged libel and words were and formed part of an article printed and published in the

said newspaper called *The Week*, and which said article was a fair and *bona fide* comment upon a public matter of public and general interest, and it was printed and published *bona fide* and for the benefit of the public, and not otherwise, and without any malicious intent or motive whatever.

Held, if true, a good defence, and the learned judge could not say, on the pleadings that it was untrue.

W. Nesbitt, for the plaintiff.
Falconbridge, for the defendant.

Full Court.] [Dec. 20.]

FLETCHER V. NOBLE.

Promissory notes—Consideration.

In an action on four promissory notes, made by the defendant, H., payable to the plaintiff, the defendants set up that the notes were given for the purchase of the plaintiff's interest in certain homestead lands in the State of Michigan, H. being the purchaser and defendant, N. surety; that under the laws of Michigan only persons of twenty-one years of age could hold homestead lands, and that plaintiff was under that age. There was no representation by plaintiff that he was of such age, while the fact was as much within the knowledge of H. as of the plaintiff. H. also obtained a surrender from the plaintiff of his interest in the land, whereby he was enabled to have himself located in his stead, which he otherwise might have had difficulty in doing, and got the same he would have got if plaintiff had been of full age.

Held, that there could not be said to be no consideration for the notes, and the plaintiff was therefore held entitled to recover.

G. T. Blackstock, for the plaintiff.
Osler, Q.C., for the defendant.

HAYES V. ARMSTRONG.

Provincial election—Returning officer—Refusal to delay return after notice of recount—Evidence of—Person aggrieved—Jurisdiction to make order.

Action by the plaintiff, a defeated candidate at an election for the local legislature against the defendant, the returning officer, for wilfully