

Townshend, J.] DAVISON v. ARMSTRONG.

[Nov. 6.]

Bribery at election—Suit for penalty.

The Nova Scotia Election Act (R.S. 1900, c. 5, s. 91), enacts that the following persons shall be guilty of bribery (describing them). It then proceeds: "And every person so offending shall be liable to forfeit the sum of four hundred dollars to any person who sues for the same costs, etc." In an action by plaintiff to recover the amount named defendant admitted the act, but contended that it was discretionary with the Court to impose any amount not exceeding \$400.

Held, that to enable the Court to exercise a discretion the statute must expressly say so and that in the absence of such words, the action being in the nature of an action for debt, there was no option, and judgment must be given for plaintiff for the full amount sued for with costs.

J. J. Ritchie, K.C., for plaintiff. *Roscoe*, K.C., and *Daniels*, for defendant.

Townshend, J.] FORREST v. SUTHERLAND.

[Nov. 7.]

Trustee—Priorities — Principal and agent — Knowledge of agent imputed to principal—Costs.

In an action by plaintiff to determine the priority of claims against a fund of which he was trustee it appeared that on February 19th, 1901, plaintiff received notice of an assignment made by the beneficiary to S., and that on May 27th, 1902, he received notice of a prior assignment of the same fund made by the beneficiary to G. The trial judge found that the agent of S. had notice of the prior assignment.

Held, that the knowledge of the agent must be imputed to and held to bind the principals; that although the principals had no direct knowledge of the assignment to G. they must be bound by all that their agent did within the scope of his authority.

Costs refused to plaintiff as between solicitor and client, but he was allowed the general costs of the action and trial. Costs were allowed to claimants in separate interests to be paid out of the fund. The Court refused to direct that solicitors' costs should be a first charge on the fund except as to the costs of plaintiff's