

ROBERTSON, J.]

[Sept. 1.]

WATERLOO ELECTION PETITION.

KNELL *v.* BOWMAN.

Controverted election—Election petition—Unqualified petitioner—Voters' list—Substituting new petition.

Held, that although the name of the petitioner in this case was on the voters' list in force, and being used at the election in question, the respondent was nevertheless entitled to show in these proceedings that the petitioner was not "a person who had a right to vote at the election to which the petition relates."

Held, nevertheless, that though the present petitioner was disqualified, it was within the jurisdiction of the court to order another elector duly qualified to be substituted as petitioner.

It is clear the intention of Parliament is that the petition, when once presented, shall be proceeded with if an elector duly qualified manifests his willingness to be substituted for the purpose of presenting the petition.

W. R. Meredith, Q.C., for the petitioner.

Aylesworth, C.C., for the respondent.

ROBERTSON, J.]

[Sept. 1.]

MITCHELL *v.* LISTER.

Partnership action—Costs—Partner surreptitiously engaging in private business—Right to account.

Motion on further directions in a partnership action.

Held, that the fact that the only dispute between the partners was as to a certain item in the accounts, in which dispute the plaintiff succeeded, was not sufficient to entitle the plaintiff to his costs against the defendant.

Chapman v. Newell, 14 P.R. 208, followed.

It appeared that after notice of dissolution of the partnership had been given, the plaintiff took certain orders in connection with the business, and had not accounted to the defendant for his share of the profits therefrom.

The articles of partnership contained a clause that "each of the partners shall be just and true to each other in all matters of the said business, and will devote their whole time diligently and faithfully to the concerns of the same, and will not at any time during their co-partnership engage in any other business whatever outside of that already existing."

Held, that, nevertheless, the defendant was not entitled to judgment for half of the estimated profits of the orders taken by the plaintiff and his travellers.

Dean v. Macdowall, 8 Chy.D. 345, specially referred to.

Worrell, Q.C., for the plaintiff.

Armour, Q.C., for the defendant.

Full Court.]

[Sept. 5.]

FERGUSON, J.]

MEREDITH, J.]

VERNON *v.* CORPORATION OF SMITH'S FALLS.

Municipal Corporation—Chief constable—Wrongful dismissal—Tenure of Office—R.S.O., c. 184, s. 445.

Action for wrongful dismissal. The plaintiff was appointed by by-law chief constable of the defendants' corporation for a period of one year.

Held, that nevertheless, by virtue of s. 445, the plaintiff must be deemed to have held his office during the pleasure of the defendants, and they had the right to dismiss him without assigning cause at any time.

Britton, Q.C., for the defendants.

Watson, Q.C., for the plaintiff.

Full Court.]

[Sept. 5.]

MCARTHUR *v.* DEANS.

Locatees—Right to sell pine—Patentees—R.S.O., c. 25, ss. 10, 11.

Held, that a locatee of land whose rights are governed by R.S.O., 1887, c. 25, s. 10, or a patentee whose rights are governed by *ib.*, s. 11, though he may really intend to clear a parcel of land, cannot simply point out such parcel to a purchaser before anything is done in the way of clearing it for cultivation and make a good sale to such purchaser of the pine timber standing and growing upon such parcel.

The right or liberty is only to cut and dispose of trees during the process of actually clearing the land for cultivation, when it appears to be and is requisite that the trees should for the purposes of such clearing be removed.

Per MEREDITH, J. The act seems to contemplate the work of clearing and cultivation being done by the settler.

W. Nesbitt for the plaintiff.

Aylesworth, Q.C., for the defendant.