

Art. 414 against C., in which penalties to the extent of \$400 were imposed on C. The Court of Queen's Bench affirmed the judgment imposing such penalties, and C. sought to appeal to the Supreme Court of Canada. On motion to quash the appeal for want of jurisdiction,

Held: That even if the judgment imposing penalties had the effect of disqualifying C. as if he had been convicted under Art. 429, no appeal would lie. The only ground of jurisdiction would be that future rights would be affected by the judgment, but under sec. 29 (b) of the Supreme Court Act, the future rights must be affected by the matter actually in controversy and not by something collateral thereto.

Seemle, that the judgment would not have the effect of so disqualifying C.

Appeal quashed with costs.

J. J. Gormully, for respondent.

Christopher Robinson, Q. C., for appellant.

Quebec.]

HOOD V. SANGSTER.

Action for partition and licitation of property—Partnership—Plaintiff's interest less than \$2,000—Not appealable—R. S. C. ch. 135, sec. 29.

An action was instituted by the respondent against the appellant for the partition and licitation of a cheese factory, etc., in order that the proceeds might be divided according to the rights of the parties who had carried on business as partners. The judgment appealed from ordered the licitation of the factory and its appurtenances. On a motion to quash the appeal by the respondent on the ground that the matter in controversy was under \$2,000, the appellant, in answer to the respondent's affidavit, filed another affidavit, showing that the total value of the property was \$3,000, but it being admitted that the respondent (plaintiff) claimed but one-half interest in the property, it was

Held, that the matter in controversy and claimed by the respondent not amounting to the sum or value of \$2,000, the appeal should be quashed with costs.

Appeal quashed with costs.

Duclos, for respondent.

MacLennan, contra.

Quebec.]

MONTREAL STREET RAILWAY CO. V. RITCHIE.

Injunction—41 Vic., ch. 14, sec. 4, P. Q.—Action for damages—Want of probable cause—Damages other than costs.

Where a registered shareholder of a company, finding the annual reports of the company misleading, applies after notice for a writ of injunction to restrain the company from paying a dividend, and where, upon such application, the company do not deny even generally the statements and charges contained in the plaintiff's affidavit and petition, there is sufficient probable cause for the issue of such writ, and consequently the defendant, who upon the merits has succeeded in getting the injunction dissolved, has no right of action for damages resulting from the issue of the injunction.

Per Taschereau, J. Where a party maliciously and without reasonable and probable cause has instituted civil proceedings against another, the latter has a right of action for damages resulting from such vexatious proceedings. *Brown v. Gagy*, 16 L. C. Jur. 227, approved of.

Appeal dismissed with costs.

Geoffrion, Q. C. and H. Abbott, Q. C., for appellants.

Lonergan and Laflcur, for respondents.

OTTAWA, October 28, 1889.

New Brunswick.]

SCAMMELL V. JAMES.

Appeal—Jurisdiction—Security for costs—Benefit of bond for—Practice.

S. brought an action by writ of *capias* in the Supreme Court of New Brunswick against J., who was arrested and gave bail. By the practice in bailable actions in that province, it was necessary for the defendant to enter into special bail within a specified time after his arrest, and judgment must be entered within a specified time after such special bail is entered into. The plaintiff delayed signing judgment, and on application to a judge in chambers, an order was made discharging the bail, and directing an exonertur to be entered on the bail bond. On motion to the full court this order was sustained, and the plaintiff appealed to the