

S. C.]

NOTES OF CASES.

[S. C.]

The vessel, valued at \$1,200, insured for \$800, was sold for about \$105 on the 11th July, and was immediately got off, and afterwards used in trading and carrying passengers.

Held, that the sale by the master was not justifiable, and that the loss was not such a loss as to dispense with notice of abandonment in claiming for a total loss.

Rigby, Q. C., for appellant.

Gormully and *Graham*, for respondent.

ELECTION APPEAL.

CIMON, Appellant, v. PERRAULT, Respondent.

Colorable employment by agent—Acts of sub-agent—Public peace.

The charge upon which this appeal was decided was one of bribery by Pamphile Allard and Joseph Israel Tarte, agents of the respondent, by payments of money to A. Bouchard, Samuel Boivin, Israel Gagnon and Jean Gagnon, all of whom were electors. By the evidence it was shown that Tarte was the respondent's general agent for that part of the country, and that Allard was specially requested and given money by Tarte, and induced by him to advance money to employ a certain number of men without specifying any particular persons to be so employed, for the alleged purpose of preserving the public peace on polling day. It was not in evidence that Tarte had applied to the proper authorities or otherwise complied with the law in order to secure the peaceful conduct of the election, but the reason assigned by him for ordering the employment of policemen was that he had received information by telegrams and letters that roughs were coming down from Quebec to Bay St. Paul to interfere with the voting of the electors. No person came, and the polling took place without any interference. The above named four persons were known to be supporters of the appellant, and swore that they voted for respondent because they received from Allard each the sum of two dollars.

Held, (*TASCHEREAU & GWYNNE, JJ.* dissenting)—(1) That the respondent was responsible for the acts of bribery committed by Allard, a sub-agent appointed by his general agent. (2), That the employment of a number of men to act as policemen on polling day by direction of Tarte, without his having pre-

viously taken the means provided by law to secure the public peace, was a colorable employment, and therefore respondent, through his agent, Tarte, was guilty of a corrupt practice.

Davidson, Q. C. for appellant.

Angers, Q. C., and *Pelletier*, Q. C., for respondent.

ELECTION APPEAL.

LARUE, Appellant v. DESLAURIERS, Respondent.

Sup. Court Act, sec. 4—Right to send back record for further adjudication—Corruption—Insufficiency of return of election expenses—Personal expenses of candidate to be included.

The original petition came before Mr. Justice McCord for trial, and was tried by him on the merits subject to an objection to his jurisdiction. The learned judge having taken the case *en delibere* arrived at the conclusion that he had no jurisdiction, declared the objection to his jurisdiction well founded, and "in consequence the objection was maintained and the petition of the petitioner was rejected and dismissed." This judgment was appealed from and the now respondent under sec. 48 of Sup. Ct. Act limited his appeal to the question of jurisdiction, and the Supreme Court allowed the appeal.

Held, that Mr. Justice McCord had jurisdiction and ordered that record be transmitted to the proper officer of the lower court to have the said cause proceeded with according to law.

Held, that the court could not, even if the appeal had not been limited to the question of jurisdiction, have given a decision on the merits, and that the order of this court remitting the record to the proper officer of the court *a quo* to be proceeded with according to law, gave jurisdiction to Mr. Justice McCord to proceed with the case on the merits and to pronounce a judgment on such merits, which latter judgment would only be properly appealable under sec. 48, S. and E. C. Act.

FOURNIER & HENRY, JJ., dissented.

The charge upon which this appeal was principally decided is that of the respondent's bribery of one David Apelin. During the election canvass the respondent gave Apelin, at whose house he stopped two or three times \$5 for the trouble he gave him. Apelin swore it was not worth more than one dollar.