

Sup. Ct.]

NOTES OF CANADIAN CASES.

[Sup. Ct.]

having been occasioned by a substantial question affecting the rights of the parties having arisen on the settlement of the minutes. Such question was discussed before one of the judges and subsequently before the full Court before being finally determined.

On November 27th, 1884, the respondent in the Court of Appeal applied to a judge of the Supreme Court of Canada, in Chambers, for leave to give security under sec. 31 of the Supreme Court Act, as amended by sec. 14 of the Supreme Court Amendment Act of 1879. This application was referred to the full Court, which

Held, that the time for bringing the appeal in this case under sec. 25 of the Supreme Court Act began to run from the 14th November, 1884, the date of entry of the judgment of the Court of Appeal.

That where any substantial matter remains to be determined before the judgment can be entered, the time for appealing runs from the entry of the judgment. Where nothing remains to be settled, as, for instance, in the case of the simple dismissal of a bill, or where no judgment requires to be entered, the time for appealing runs from the pronouncing of the judgment.

In appeals coming from the Province of Quebec, the time for appealing runs in every case from the pronouncing of the judgment, owing to the peculiar form of procedure in that Province.

Application allowed.

O'Sullivan, for appellant.

Whiting, for respondent.

CITY OF MONTREAL V. HALL.

Action for malicious prosecution—Damages—Arts. 2262, 2267, C. C. not applicable.

On the 7th of July, 1868, the council of the city of Montreal passed a resolution authorizing and directing proceedings to be instituted for the purpose of staying all proceedings of certain commissioners appointed under 27 and 28 Vict. ch 66 (by which proceedings they had determined the price or compensation to be allowed to one W. for expropriating certain property in the city of Montreal), and of having the said commissioners (plaintiff being one of said commissioners) removed as persons

who had forfeited their obligations as such commissioners. A petition was then presented to one of the judges of the Superior Court of the Province of Quebec by the corporation of the city of Montreal, wherein certain charges of venality and corruption were made against the plaintiff, and they prayed for the removal from the office of said commissioner the said plaintiff. By a judgment of the Superior Court, dated 17th September, 1870, the plaintiff was acquitted of the calumnious charges; but he was removed from the office for another cause which on appeal was pronounced by the Court of Appeal, and subsequently by the Privy Council to have been insufficient and unfounded.

Plaintiff in May, 1871, instituted an action against the corporation setting forth the above facts, and alleging that the proceedings in the Courts had been instituted maliciously and without probable cause, and alleging that the effect of so falsely and maliciously prosecuting such proceedings was to deprive the plaintiff almost wholly of the benefit of his profession by branding him as venal and corrupt, and unworthy of all trust and confidence, and claimed \$20,000 damages.

To this action the appellants pleaded *inter alia*, that the action was for libel and barred by Arts. 2262 and 2267 C. C., and that no action lies against them under the circumstances appearing in the case.

Held (affirming the judgment of the Court below, FOURNIER, J., dissenting), that the declaration disclosed an action for malicious prosecution in that legal proceedings of a civil nature had been instituted maliciously and without probable cause, and as the proceedings were only terminated upon the delivery of the judgment of the Superior Court on the 17th September, 1870, whereby the plaintiff was acquitted of the calumnious charges made, the prescription did not begin to run before the date of said judgment, and the action was not barred by Arts. 2262 and 2267 C. C.

That there was sufficient evidence of malice and want of probable cause to justify the damages awarded to respondent by the Court below.

Appeal dismissed with costs.

Roy, Q.C., for appellants.

Barnard, Q.C., for respondents.