

The Legal News.

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SUPREME COURT OF CANADA.

Quebec.]

J. B. B. MORIN, Appellant, & THE QUEEN,
Respondent.

Error—Writ of—On what founded—Right of Crown to stand aside jurors when panel of jurors has been gone through—Question of law not reserved at trial—Criminal Procedure Act—R.S.C., ch. 174, secs. 164, 256, 266.

Where a panel had been gone through and a full jury had not been obtained, the counsel for the prisoner on the second calling over of the jury list, objected to the Crown ordering certain jurors to stand aside a second time without cause, and the judge presiding at the trial did not reserve or refuse to reserve the objection, but ordered the jurors to stand aside again, and after conviction and judgment a writ of error was issued.

Held, per Taschereau, Gwynne and Patterson, JJ., (affirming the judgment of the Court of Queen's Bench, P.Q.,) that the question was founded on a question of law arising on the trial which could have been reserved under sec. 259 of ch. 174, R. S. C., and as the judge at the trial had not reserved or refused to reserve the question, the writ of error should be quashed. Sec. 266, ch. 174, R.S.C.

Per Ritchie, C. J., and Strong, Fournier and Patterson, JJ., that the Crown could not without showing cause for challenge direct a juror to stand aside a second time. Sec. 164, ch. 174, R.S.C.

Per Taschereau, J., that the learned judge at the trial was justified in ruling according to Morin v. Lacombe, 13 L. C. J. 259, and the jurisprudence of the Province of Quebec.

Per Gwynne, J. That all the prisoner could complain of was a mere irregularity in procedure which could not constitute a mis-trial.

Per Ritchie, C. J., and Strong and Fournier, JJ. That as the question arose before the trial commenced it could not have been re-

served, and as the error of law appeared on the face of the record the remedy by a writ of error was applicable. (See *Brisebois v. Queen*, 15 Can. S. C. R. 421.)

Appeal dismissed.

Langelier, Q. C., for appellant.

Dunbar, Q. C., for respondent.

Quebec.]

COSSERTE v. DUN et al.

Appeal—Jurisdiction—Amount in controversy—Supreme and Exchequer Courts Act, sec. 29—Mercantile agency—Responsibility for communicating to a subscriber an incorrect report concerning the standing of a person in business—Damages—Discretion of Judge in the Court of first instance.

The plaintiff in an action for \$10,000, for damages, obtained a judgment of \$2,000. The defendant appealed to the Court of Queen's Bench where the judgment was reduced to \$500 (M. L. R., 5 Q. B. 42.) The plaintiff then appealed to the Supreme Court and the defendant filed a cross appeal.

Held, that the case was appealable to the Supreme Court, the matter in controversy being the judgment of the Superior Court for \$2,000, which the plaintiff seeks to have restored. (Taschereau and Patterson, JJ., dissenting.)

*Held also, per Ritchie, C. J., and Fournier and Gwynne, JJ. 1st. That persons carrying on a mercantile agency are responsible for the damages caused to a person in business by an incorrect report concerning his standing, though the report be only communicated to a subscriber to the agency on his application for information. 2nd. Reversing the judgment of the Court below, that the amount of damages awarded by the judge in his discretion in the court of first instance, there being no error or partiality shown, should not have been interfered with by the court of appeal. *Levi v. Reed*, 6 Can. S. C. R. 482, and *Gingras v. Desilets, Cassels, Digest 117*, followed.*

Appeal allowed with costs.

Belcourt for appellant.

Lash, Q. C., & Girouard, Q. C., for respondents.