

McCabe v. Bank of Ireland, 14 App. Cas. 413, followed.

And where the title to property, the subject of the present and a former action of ejectment, was shifted in the hands of the present plaintiff, to evade, if possible, the effect of an order requiring the plaintiff in the former action to give security for costs—the former action having been dismissed for default of such security—and it appeared that the present plaintiff knew the history of the prior litigation, an order for security for costs was affirmed.

The order was also maintainable upon the ground that the plaintiff was a person of no substance, and the action brought mainly, if not entirely, for the benefit of some unknown and unnamed person, not a party to the record.

J. A. Donovan, for the plaintiff.

Middleton, and *J. M. Godfrey*, for the defendant.

BOYD, C., MEREDITH, C.J., }
MACMAHON, J. }

June 30.

MCLEOD v. NOBLE.

Parliamentary elections—Recount by County Judge—Injunction of High Court to restrain—Jurisdiction—Disobedience of—Motion to commit for contempt for disobedience of injunction.

The Dominion House of Commons is clothed with the like privileges, immunities and powers as were, at the date of Confederation, enjoyed and exercised by the House of Commons in England, which had the right to determine all matters concerning the election of its own members, and their right to sit and vote in Parliament.

In all matters not relegated to the Court, the House retains and exercises its jurisdiction.

The preliminary recount provided for by R.S.C., c. 8, s. 64, is a delegation pro tanto of parliamentary jurisdiction, and the presiding officer (County Judge) is one designated by Parliament, and responsible to the House for the right performance of his duties.

On an application to commit for contempt of Court a barrister, who had in argument as agent of a candidate urged a County Court Judge to disregard an injunction staying proceedings granted by the High Court of Justice, and proceed with the recount, and a returning officer who had under the direction of the County Judge produced the ballots for the purpose of the recount, notwithstanding that the injunction prohibited him from so doing.

Held, that the plaintiff (the defeated candidate) had no particular specific legal right as applicant for a recount which entitled him to claim a specific legal remedy in the Courts.

That the Provincial Court had no jurisdiction to enjoin the prosecution of proceedings connected with controverted elections of the Dominion, such as a recount under s. 64, R.S.C. c. 8.

That a County Judge having jurisdiction and having issued his appointment for a recount the procuring of an injunction from the High Court was an unwarrantable attempt to interfere with the due course of the election.

That the injunction being one the Court had no jurisdiction to grant was extra judicial and void, and a thing which might be disobeyed.