STREET, J.] [Dec. 31, 1888.

REGINA *ex rel.* JOHNS *v.* STEWART.

Municipal elections—Corrupt practices—Bribery by agents—Presumption as to candidate's intention—Gifts by candidate—Payments to canvassers.

A candidate for a municipal office, though not required by law to make his payments through a special agent, is not absolved from keeping a vigilant watch upon his expenditure; and a candidate who, on the eve of a hotly contested election, places a considerable sum of money in the hands of an agent capable of keeping part of it for himself and of spending the rest improperly or corruptly, who never asks for an account of it, gives no directions as to it, and exercises no control over it, must be held personally responsible if it is improperly expended. And where money given to agents by the candidate was, in fact, used in bribery,

Held, that the presumption that the candidate intended the money to be used as it was used became conclusive in the absence of denial on his part.

Gifts by a candidate to one who is at the time exerting his influence in the candidate's behalf are naturally and properly open to suspicion; and in the absence of any explanation such gifts must be regarded as having been made for the purpose of securing, or making more secure, the friendship and influence of the donee.

In the election in question every member of certain committees was paid a uniform sum of $2, nominally for his services as a canvasser, but apparently without regard to the time he devoted to the work, and without inquiry as to whether he had in fact canvassed at all.

Held, that these payments were corruptly made and constituted the offence of bribery as defined by ss. 2 of s. 209 of the Municipal Act.

Under the circumstances above referred to, and other circumstances of the case, the defendant was found personally guilty of acts of bribery, and to have forfeited his seat as mayor of the city of Ottawa.

Aylesworth, for the relater.

Chrysler, for the defendant.

Chancery Division.

Div'l Ct.] [Dec. 14, 1888.

WEBBER *v.* MCLEOD.

Malicious arrest—Unlawful and malicious injury—Findings of jury—Reasonable and probable cause—R.S.C., c. 168, *s.* 59.

Plaintiff was in occupation of a house on a farm of the defendant's, and cut off the ends of some logs used in the construction of a small building, which logs were so old and rotten that they had fallen out of their places in the building and the ends rested on the ground. Defendant had plaintiff arrested and imprisoned on a charge of "unlawful and malicious injury to his property," but the magistrate dismissed the case.

In an action for malicious prosecution the jury found, in answer to questions submitted by the Judge, that defendant did not have reasonable ground for believing that plaintiff had unlawfully and maliciously injured the property, and did not take care to inform himself as to the facts, and was actuated by other motives than the vindication of the law in laying the information, and assessed the damages at $100.

On motion to set aside the verdict the application was dismissed.

Per BOYD, C. It was open to the jury to find that the wood was of no value, and that the injury was of too trifling a character to justify the defendant in setting the criminal law in motion, and that was evidently the meaning of their answers to the questions. If there was no actual positive damage proved the plaintiff was not chargeable under R.S.C., c. 168, s. 59.

Held, also, that it was proper to leave the whole case to the jury, and the questions were sufficient for that purpose, and the jury having found a want of reasonable care on the part of defendant to inform himself of the true state of the case, that was a sufficient justification for holding that there was want of reasonable and probable cause.

Per FERGUSON, J. The jury virtually found that the property said to be injured was of no appreciable value, and, that being the case,