the opposition *en sous ordre* was filed, such opposition was not too late.

Appeal dismissed with costs.

Begue and *Lacoste*, for appellant.

Laflamme, Q.C., and *Robertson*, Q.C., for respondent.

[Dec. 15, 1888.

ALLEN v. THE MERCHANTS' MARINE INS. CO.

Marine insurance—Conditions of policy—Validity of—Art. 2184 C.C.

A condition in a marine policy that all claims under the policy should be void unless prosecuted within one year from date of loss is a valid condition and not contrary to Art 2184 C.C., and all claims under such policy will be barred if not sued on within the said time.

Per TASCHEREAU, J.—The debtor cannot stipulate to enlarge the delay to prescribe, but the creditor may stipulate to enlarge that delay.

Appeal dismissed with costs.

[Dec. 15, 1888.

BRISEBOIS v. THE QUEEN.

Reserved crown case—Ch. 174, secs. 246 and 259 R.S.O.—Construction of.

B. having been found guilty of feloniously having administered poison with intent to murder moved to arrest the judgment on the ground that one of the jurors who tried the case had not been returned as such. The general panel of jurors contained the names of Joseph Lamoureux and of Moise Lamoureux. The special panel for the term of the court at which the prisoner was tried contained the name of Joseph Lamoureux. The sherriff served Joseph Lamoureux's summons on Moise Lamoureux and returned Joseph Lamoureux as the party summoned. Moise Lamoureux appeared in court and answered to the name of Joseph Lamoureux and was sworn as a juror without challenge when B was tried. On a case reserved it was:

Held, affirming the judgment of the Court of Queen's Bench, that s. 246 c. 174 R.S.C. clearly covered the irregularity complained of, STRONG and FOURNIER JJ., dissenting.

Held, also, per RITCHIE C.J. and TASCHEREAU and GWYNNE JJ., that the point should not have been reserved by the judge at the trial, it not being a question arising at the trial within the meaning of s. 259 c. 174 R.S.C.

Appeal dismissed with costs.

Leduc, for appellants.

Mathieu and *Garmully*, for the crown.

[Dec. 15, 1888.

PROOPER v. THE QUEEN.

Criminal law—Trial for felony—Jury attending church—Remarks of clergyman—Witnesses—Medical expert—Admissibility of evidence of.

During the progress of a trial for felony the jury attended church in charge of a constable, and at the close of the service the clergyman directly addressed them, remarking on the case of one Millman who had been executed for murder in P.E.I., and told them that if they had the slightest doubt of the guilt of the prisoner they were trying they should temper justice with equity. The prisoner was convicted.

Held, affirming the judgment of the Court of Crown cases reserved for Nova Scotia, that although the remarks of the clergyman were highly improper, it could not be said that the jury were influenced by them so as to affect their verdict.

A witness on a trial for murder by shooting, called as a medical expert, stated to the crown prosecutor that "there were indicia in medical science by which it could be said at what distance from the human body the gun was fired." This was objected to, but the witness was not cross-examined as to the grounds of his statement. He then described what he found on examining the body of the murdered man, and stated the maximum and minimum distances at which the shot must have been fired.

Held, STRONG and FOURNIER, JJ., dissenting, that the opening statement of the witness established his right to speak as a medical expert, and not having been shown by cross-examination, or by other medical evidence,