

were to be liable for the rebuilding and maintenance of a certain bridge. The municipality of Varennes, by their action, prayed to have the by-law or procès-verbal in question set aside on the ground of certain irregularities.

On appeal to the Supreme Court of Canada:

Held, that the case was not appealable under s. 29 or s. 24, s-s. "g," of the Supreme and Exchequer Courts Act, the appeal not being from a rule or order of a court quashing or refusing to quash a by-law of a municipal corporation.

Appeal quashed with costs.

Allan for appellant

Archambault, Q.C., for respondent.

WINEBERG ET VIR v. HAMPSON.

Jurisdiction—Appeal—Future rights—Title to lands—Servitude—Supreme and Exchequer Courts Act, s. 29 (b).

By a judgment of the Court of Queen's Bench for Lower Canada (appeal side), the defendants in the action were condemned to build and complete certain works and drains in a lane separating the defendants' and plaintiffs' properties on the west side of Peel Street, Montreal, within a certain delay, and the court reserved the question of damages. On appeal to the Supreme Court of Canada:

Held, that the case was not appealable. *Gilbert v. Gilbert* (16 S.C.R. 189) followed.

The words "title to lands" in s-s. "b," s. 29, Supreme and Exchequer Courts Act, are only applicable to a case where title to property or a right to the title are in question. *Wheeler v. Black* (14 S.C.R. 242) referred to.

Appeal quashed with costs.

Bethune, Q.C., for motion.

Robertson, Q.C., contra.

BORDEN v. BERTEAUX.

Election petition—Preliminary objections—Service at domicile—R.S.C., c. 9, s. 10.

Held, that leaving a copy of an election petition and accompanying documents at the residence of the respondent with an adult member of his household during the five days after the presentation of the same is a sufficient service under s. 10 of the Dominion Controverted Elections Act, even though the papers served do not come

into the possession or within the knowledge of the respondent.

Appeal dismissed with costs.

Roscoe for appellant.

Boak for respondent.

STANSTEAD ELECTION.

RIDER v. SNOW.

Election appeal—Preliminary objections—Status of petitioner—Onus probandi.

By preliminary objections to an election petition the respondent claimed the petition should be dismissed *inter alia*: "Because the said petitioner had no right to vote at said election."

On the day fixed for proof and hearing of the preliminary objections, the petitioner adduced no proof and the respondent declared that he had no evidence, and the preliminary objections were dismissed. On appeal to the Supreme Court of Canada, the counsel for appellant relied only on the above objection.

Held, per SIR W. J. RITCHIE, C.J., and TASCHEREAU and PATTERSON, JJ.: That the onus was upon the petitioner to establish his status, and that the appeal should be allowed and the election petition dismissed.

Per STRONG, J.: That the *onus probandi* was upon the petitioner, but in view of the established jurisprudence the case should be remitted to the court below to allow petitioner to establish his status as a voter.

FOURNIER and GWYNNE, JJ., contra, were of opinion that the *onus probandi* was on the respondent, following the Megantic election case, 8 S.C.R. 169.

Appeal allowed with costs, and petition dismissed.

Gcoffrioen, Q.C., for appellant.

White, Q.C., for respondent.

Prince Edward Island.]

DAVIES AND WELSH v. HENNESSY.

Election petition—Preliminary objections—Personal service at Ottawa—Security—Receipt—R.S.C., c. 9, ss. 8, 9, s-s. (e) & (g), s. 10.

In Prince Edward Island two members are returned for the electoral district of Queen's County. With an election petition against the return of the two sitting members the petitioner deposited the sum of \$2,000 with the deputy