trial, and the trial was fixed for the 31st of October at Quebec, on which day it was continued by consent to the 19th of December. On this last mentioned day the respondent moved the Court to dismiss the petition on the ground that the petitioners had not proceeded to trial within six months from the presentation of the petition. On the 26th of December, the Court, Mr. Justice Caron presiding, dismissed the election petition without costs. On appeal to the Supreme Court of Canada, it was :—

Held, Fournier & Henry, JJ., dissenting, that the Supreme Court of Canada had no jurisdiction to entertain an appeal from said judgment. *Montmagny Election Case* decided this term followed. (See next case).

Per Henry, J., affirming the judgment of Mr. Justice Caron, that as the petitioners had not made an application supported by affidavit to enlarge the time for the commencement of the trial as provided in section 33 ch. 9, R. S. C., the election petition was properly dismissed.

Appeal quashed with costs.

Martin and *McDougall, Q.C.*, for appellant.
Bossé, Q.C., for respondent.

QUEBEC.]

MONTMAGNY CONTROVERTED ELECTION CASE.

CHOQUETTE v. LABERGE.

R.S.C. ch. 9, sec. 11.—Service of Election Petition Defective—C. C. P. 57—Preliminary Objection.

The service of an election petition made in the Province of Quebec, at the defendant's law office situated on the ground floor of his residence and having a separate entrance, by delivering a copy thereof to the defendant's law partner, who was not a member of, and did not belong to, the defendant's family, is not a service within Sec. 11, Ch. 9, Revised Statutes of Canada, and Art. 57 C.C.P., and a preliminary objection setting up such defective service was maintained, and the election petition was dismissed; Gwynne, J., dissenting.

Appeal allowed with costs.

Belcourt, for appellant.
Belleau, for respondent.

*COURT OF QUEEN'S BENCH—MONTREAL.**

Surety—Cash security—Deposit receipt held by Government—Failure of Bank—Responsibility.

The appellant agreed to put up a cash security of $15,000 to the Government for the performance of a contract by the respondents, which security was to remain in the hands of the Government until the contract should be fulfilled; and the respondents were to pay to the appellant $2,000 per annum until the security should be released. By arrangement with the Exchange Bank a deposit receipt for $15,000 was accepted by the Receiver-General, and that sum was placed to his credit in the Exchange Bank and remained under his control.

HELD :—That the loss of the $15,000 by the failure of the Bank, was a loss to be borne by the Government and not by the appellant, and that the appellant was entitled to recover the $2,000 from the respondents, notwithstanding the tender back to him of the deposit receipt; that the terms on which the appellant obtained the credit at the Exchange Bank were not material to the issue, the appellant having furnished what was accepted by the Government as equivalent to cash at the time it was given; that the amount being entered in the books of the Bank to the credit of the Receiver-General, the deposit thereby became a debt due by the Bank to the Receiver-General, and was at the risk of the Government.—*Gilman & Gilbert et al.*, Tessier, Cross, Baby, Church, Doherty, JJ. (Baby and Church, JJ., diss.), Dec. 22, 1887.

Bill of exchange—Liability of acceptor—Imputation of payments.

J, a customer of the Exchange Bank, respondent, discounted with that Bank appellant's acceptance. When it fell due, appellant failed to pay it, and the Bank charged it to J's account, who at the time owed the Bank a small balance, which balance was augmented by subsequent transactions, wherein, nevertheless, if the credits were imputed to the earliest indebtedness, the balance due when the acceptance matured

* To appear in Montreal Law Reports, 3 Q. B.