

ber, 1887, at which Narcisse E. Cormier and Alfred Rochon were candidates, and on the final addition of the votes cast, the returning officer found that Mr. Rochon had a majority of the votes.

Within the four days prescribed by the Quebec Election Law, an application was made for a recount, by Léon Chartier, a duly qualified elector of the electoral district.

On the day appointed for the recount, when the returning officer produced the parcels containing the ballots, Mr. Rochon objected to the recount, on the ground that it had not been asked for by the other candidate, and that only a candidate had the right to demand a recount; and he moved that the judge declare himself incompetent to proceed.

PER JUDICEM. The amendment to the Quebec Election Law, which provides for a recount (42-43 Vict., cap. 15), does not specify by whom the application must be made; it merely provides that on the production of the affidavit of any credible witness, and on the deposit by the applicant of the sum of \$50, within four days after that on which the final addition of the votes has been made, the judge shall appoint a time for a recount of the votes.

A recount is granted when it is affirmed that any deputy returning officer, in counting the votes, has improperly counted or rejected any ballot-papers, or that the returning officer has improperly summed up the votes. The application for a recount is a contestation of the regularity of some of the proceedings at an election, and of the declaration of the returning officer, and a demand for a revision of such proceedings and for the rectification of the declaration. It is of the nature of the contestation of an election, although a summary and not a final proceeding. All persons qualified to contest an election and present an election petition, have, therefore, the same interest and consequently, in the absence of any provision of law to the contrary, the same right to demand a recount.

Under the Controverted Elections Act, an election may be contested, either by one or more electors who were duly qualified to vote at the election questioned, or by one or

more candidates at such election; and I am of opinion that any elector whose name is duly entered on the list of electors which availed at an election, is likewise entitled to demand a recount.

As the applicant, Léon Chartier, appears to be a duly qualified elector, I therefore over-rule the objection taken; and I will proceed to make the recount.

Recount proceeded to.

Henry Ayles, for applicant.

L. N. Champagne, for candidate declared elected.

SUPERIOR COURT—MONTREAL. *

Costs—Distraction—Action by client who has paid costs to attorney—Prescription—Company—Authority of managing director—Unlawful acts—Malicious seizure—Probable cause.

HELD:—1. That an attorney, to whom distraction of costs has been awarded, is the personal creditor for such costs, and if his client pays them and obtains a transfer, the transfer must be served upon the debtor before action can be brought therefor.

2. Prescription of any right of action which may arise out of a pleading does not run from its date, but from its disposal by the Court.

3. Unlawful acts of the managing director of a company, designed to bring about the ruin of a copartnership firm, do not bind the company or make it responsible for damages, unless approved or ratified by the company.

4. Where the stock and machinery of a firm were already under seizure at the instance of another creditor, upon an affidavit charging insolvency and fraudulent secretion, and one of the partners had declared himself insolvent, and had attempted to make an assignment in the name of the firm, that the defendants, overdue creditors and unpaid vendors, had reasonable and probable cause for making a seizure in revendication of their own goods.

5. The allegations of the declaration in this case make the action one of damages for malicious proceedings, and not for libel or slander.—*Bury v. The Corriveau Silk Mills Co. Davidson, J., Nov. 15, 1887.*

* To appear in Montreal Law Reports, 3 S. C.