

Ontario.]

WALSH v. TREBILCOCK.

[Oct. 9.

*Criminal law—Betting on election—Stakeholder of bet between individuals—R.S.C., c. 159, s. 9—Accessory—R.S.C., c. 145—Recovery from stakeholder—Parties in pari delicto.*

W. and another made a bet on the result of an election for the House of Commons, and each deposited the sum bet with T. By the result of the election, W. lost his bet, and the money was paid by T. to the winner. W. then brought an action against T. for the amount he had deposited with him, claiming that the transaction was illegal, and the contract to pay the money void.

*Held*, reversing the decision of the Court of Appeal (21 A. R. 35), TASCHEREAU, J., dissenting, that T., in becoming the depositary of the money, was guilty of a misdemeanour under R.S.C., c. 159, s. 9 (Criminal Code, s. 204); that W. was an accessory by R.S.C., c. 145; and that the parties being *in pari delicto*, and the illegal act having been performed, W. could not recover.

Appeal allowed with costs.

*Meredith*, Q.C., for the appellant.

*Aylesworth*, Q.C., and *McKillop* for the respondent.

Quebec.]

[May 31.

GOVERNOR AND COMPANY OF ADVENTURERS OF ENGLAND v. JOANNETTE.

*Game laws—Arts. 1405-1409, Rev. Stats. P.Q.—Seizure of furs killed out of season—Justice of the peace—Jurisdiction—Prohibition—Writ of.*

One F.X.J., gamekeeper, seized certain boxes of furs on board the schooner *Stulucomi*, in the boundaries of the city of Quebec, after having taken out a search warrant issued by the judge of the Court of Sessions of the Peace. While the examination of the furs was going on at the police court, the appellants took out a writ of prohibition, and the writ was made absolute by the Superior Court, but subsequently quashed on appeal to the Court of Queen's Bench (Appeal side). The judge of the Sessions swore the experts before confiscation to report on the condition of the furs at the time they were seized by the gamekeeper.

*Held*, affirming the judgment of the court below, (1) that under Article 1405, read in connection with Article 1409, R.S.P.Q., the gamekeeper is authorized to seize furs on view on board a schooner even without a search warrant, and to have them brought before a justice of the peace for examination.

(2) That the judge of the Court of Special Sessions of the Peace, having jurisdiction to try the alleged offence of having furs killed out of season, a writ of prohibition is not an appropriate remedy for any irregularity in the procedure.

Appeal dismissed with costs.

*C. Stuart*, Q.C., for the appellants.

*Languedoc*, Q.C., for the respondent.