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SUPREME COURT OF CANADA.

OTTAWA, 24 March, 1897.

Quebec]

BEAUHARNOIS ELECTION CASE.

BERGERON v. DESPAROIS.

*Controverted election—Preliminary objections—Service of petition—
Bailiff's return—Cross-examination—Production of documents.*

A preliminary objection filed to an election petition was that it had not been properly served. The bailiff's return was that he had served it by leaving a copy "duly certified" with the sitting member. By Art. 56, C.C.P., a writ or other document is served by giving a copy to the person on whom service is to be effected, certified by the prothonotary, attorney or sheriff, and it was claimed that the return in this case should have shown by whom the copy was certified. On the hearing the counsel for the sitting member wished to cross-examine the bailiff as to the contents of the copy, but without producing it, but was not allowed to do so.

Held, that the bailiff's return was good. Art. 78 C. C. P. only requires a return that he had served a copy, and the words "duly certified" were superfluous.

Held also, that counsel could not cross-examine the bailiff as to the contents of the copy served, without producing it or laying a foundation for secondary evidence.

Appeal dismissed with costs.

Foran, Q.C., and *Ferguson, Q.C.*, for appellant.

Choquet, for respondent.