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THE DOMINION CONTROVERTED ELECTIONS ACT.

We give in this issue the judgment of the Judicial Committee of the Privy Council on the application for leave to appeal in the case of *Valin* v. *Langlois*, already noticed at p. 9. The remarks of their Lordships are of interest, as showing that the merits of the question were considered on the preliminary application for leave to appeal; but they do not reflect much additional light upon the subject. The question, of course, was only partially argued before the Committee, and it was not necessary for them to look into the merits further than to satisfy themselves that no serious objection could be urged against the judgment of the Supreme Court of Canada. In dealing with the main question, they begin by stating a principle which, though almost self-evident, is a useful one to be kept in view by Judges and Magistrates of every degree before whom questions of the constitutionality of Acts are so frequently raised. "It is not to be presumed," say their Lordships, "that the legislature of "the Dominion has exceeded its powers, unless "upon grounds really of a serious character." The same may be said of the legislatures of the Provinces. The presumption is in favor of the validity of their Acts, and the burden of demonstrating their invalidity rests upon those who seek to overthrow them.

NAVIGABLE RIVER.

Another decision of the Judicial Committee of the Privy Council, in a case from this Province, is that rendered on the 22nd November last, affirming the judgment of the Queen's Bench in *Bell* v. *Corporation of Quebec*. The action was brought for damages, and to obtain the demolition of a bridge, constructed by the Corporation of Quebec, across the Little River St. Charles, a tributary of the St. Lawrence, on the ground that the bridge obstructed the navigation of the river, and thereby caused damage to the appellant, Bell, as the owner of riparian land. The bridge formed part of the works constructed by the Corporation to carry water to Quebec for the use of the inhabitants. The case turned chiefly on questions of fact; but the law governing the subject is stated by their Lordships as follows:—The test of the navigability of a river is the possibility of its use for transport in some practical and profitable way; and therefore a river which is navigable for small boats, but up which barges can only be brought with risk and difficulty at exceptional states of the tide, cannot be considered as navigable. The French law of the Province makes a distinction between rights of immediate access from a man's property to a highway, and the right to complain of a mere obstruction in it; and therefore a riparian proprietor upon a navigable river cannot maintain an action in respect of an obstruction of the navigation without proof of actual and special damage, provided that his right of access to the waterway is not interfered with thereby. Bell failed to establish special damage, and his action was dismissed in all the Courts.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, December 17, 1879.

SIR A. A. DORION, C.J., MONK, RAMSAY, TESSIER & CROSS, JJ.

STEWART es qual. (deft. below), Appellant, and FARMER (plff. below), Respondent.

Assignee under Insolvent Act of 1875, *may be sued as such in an ordinary action of damages where he has sold as belonging to the insolvent, property not belonging to the insolvent.*

The principal question raised in this case was whether an assignee can be sued in warranty in an ordinary action, or whether the other party is obliged to have recourse to the Insolvent Court, and make a petition there.

Stewart, as assignee to Payette, an insolvent, sold to the respondent certain real estate as belonging to Payette, and received the price. At the time of the sale one Tessier owned part of the land sold, and he had obtained a judgment for $134.70 damages against the insolvent,