NOTES OF CASES.

SUPERIOR COURT.

BERTHIER, Feb. 21, 1883.

Before DOHERTY, J.

GENEREUX et al. v. CUTHBERT.

Dominion Controverted Election Act, 1874 — *The Berthier Election Case — Evidence — Bill of Particulars—Corrupt Act — Passes — Limited Agency — Money paid by candidate to canvasser.*

1. *Evidence of corrupt acts and bribery is not admissible under a bill of particulars in which the names and descriptions of the alleged bribers are not given.*
2. *Passes, which were not paid for by the giver, presented to electors to take them to the polling place, do not constitute a " valuable consideration " within the meaning of the Act.*
3. *Telling a carter who was asked to bring a voter to the poll, " tu feras ton compte, et tu iras te faire payer," even if the words were used by an agent of the candidate, is insufficient to avoid an election.*
4. *Where the agency of a person is limited to a particular act, e.g. making a speech for a candidate, and subsequently that person is guilty of an act of a doubtful character, he will not be deemed an agent of the candidate merely because he had been employed for a special purpose.*
5. *The advance of a sum of money by a candidate for the travelling expenses of a canvasser, who was also an agent and a voter, will not be held to avoid the election, where the Court is of opinion that the advance was made in good faith, though the item was subsequently omitted in the candidate's statement of personal expenses.*

DOHERTY, J. Early in the course of this trial, counsel for respondent raised an objection to any evidence of alleged corrupt acts and bribery, under particulars in which the names and description of the alleged bribers were not given.

The question being debateable and important, I ordered, in some cases, the evidence to be taken under reserve.

My first duty now is to decide that objection, and after examination of the authorities on this point, I maintain the objection. The authorities and the practice are decidedly in favor of this decision.

Fortunately, the question arose only in the cases which were abandoned by petitioners at the hearing, and the decision is now in this case immaterial.

A petition is presented, in the usual form, as to corrupt practices, without claiming the seat. This petition is supplemented by a Bill of Particulars, consisting of twenty-six specific heads or charges.

Respondent answers these charges by a general denegation, alleging at the same time petitioner's want of quality or right to petition against the validity of the election, which right was afterwards admitted, thus bringing the case to a direct issue on the merits.

Petitioners have called witnesses, in moderation as to number, and respondent has examined but few in rebuttal.

At the hearing, petitioners very properly abandoned as unproved, all but five of their charges, persisting in the 1st, 2nd, 8th, and 20th, and in the additional particular, A, which among others, they were permitted to produce.

The grounds of the petition, as articulated, are fully sufficient in law, and if petitioners have proved them, or any one of them, the election must be avoided.

The first charge, which may be designated as the " Lamarche case," so persisted in, is in the following terms :

" Que pendant la dite élection, le dit Edouard " Octavien Cuthbert, directement et indirecte- " ment, par lui-même, par le moyen d'autres " personnes, et de ses agents autorisés, et entr'- " autres par Olivier Lamarche, marchand de " Berthierville, district électoral de Berthier, de " la part et le consentement et à la connaissance " réelles du dit Intimé, a payé les dépenses de " voyage et autres dépenses, d'un grand nombre " d'électeurs du dit district électoral de Berthier, " pour les aider à se rendre à l'élection, et à s'en " retourner, à se rendre aux, ou aux environs des " bureaux de votation, et entr'autres à Octave " Boucher, Jean Baptiste Godin, Alexandre " Godin, Narcisse Boucher, Louis Valois, Pierre " Latour, tous navigateurs de l'Ile Dupas, dans " le district électoral de Berthier; Joseph " Plouffe, Alfred Bruno, Dolphis Rocrais, Dol- " phis Massé, Servius Massé, Joseph Pagé, Oc- " tave Parent, tous navigateurs de Berthier, dans " le dit district; Lafontaine, de Québec, em- " ployé civil; Narcisse Boucher, navigateur de " Trois-Rivières, district de Trois-Rivières; " Pierre Arpin, navigateur de Lanoraie, dit dis- " trict de Berthier; Dolphis Buron, navigateur " de Berthier, district électoral de Berthier; " Charles Rocrais, navigateur du même lieu; " Alfred Chignette, maître de pension de Mont- " réal, district de Montréal; toutes ces personnes " étant électeurs de la division électorale de