

this payment was prohibited unless it were made through an agent whose name and address had been declared in writing to the returning officer; but it should be observed that Tremblay was not an elector; and there is nothing to reach the candidate, as to knowledge of that payment. There is evidence enough to show that the candidate paid money to Mr. Mercier, and that the latter paid to Tremblay; but none to show that the candidate knew that Mercier so paid the money; and if it had been made by Papineau himself, who was a duly appointed agent, and appears indeed to have been the only duly appointed agent of the candidate, it could not have been considered an unlawful payment. This payment was included in the account of legal expenses which Mr. Papineau, the agent, afterwards approved; and if, instead of the money having been paid by Mercier and approved by Papineau, it had been paid by Papineau himself, the proceeding would have been an unobjectionable one. It was said that under the amendment of the law (39 Vict., sec. 19) a payment to a canvasser was made a corrupt practice. So it was; but it is not clear that Tremblay was a canvasser; and if it were, the payment by Mercier without Gaboury's knowledge would not reach to disqualify the latter, but merely to avoid the election which was already done by the admission of the candidate.

The next case in respect of the disqualification of respondent was the case of Beaubien. All that was urged against Mr. Beaubien was that he had received money from Gaboury to influence the election. The fact is that Papineau the agent sent him \$50, and being a cautious man he returned it, considering rightly that the agent was the proper person to pay lawful expenses. Therefore, there is nothing in this particular charge at all.

The remaining charge, although not mentioned in the factums, was put very clearly by Mr. Boisvert, for the petitioner, at the argument, and it consisted in the payment by Mr. Gaboury himself to Mr. Mercier, of a sum of \$100, to promote his election. Section 249 of the Quebec Election Act (c. 7,) defines corrupt practices. It says among others in sub-section 3, of 249, "every person who di-

rectly or indirectly by himself, or any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement, as aforesaid to or for any person, in order to induce such person to procure, or endeavour to procure, the return of any person to serve in the Legislative Assembly, or the vote of any elector at any election," is a corrupt practice. What is charged against Mr. Gaboury on this head is that he paid this money, (call it gift, loan, advance, or anything else,) to induce Mr. Mercier to procure his, (Gaboury's,) return. I think we cannot be too careful to distinguish what this charge is from what it is not. It is *not* that, in contravention of section 278, the money was paid otherwise than through an agent declared to the returning officer. That would be unlawful, no doubt, and subject by that section to a penalty; but the charge is that the money was paid, as I have said, to induce Mr. Mercier to procure the candidate's return. That, of course, is a matter of fact to be judged of from the evidence of the circumstances. Now, if there is one thing conspicuously certain throughout this whole lamentable, and I must say most abusively long contestation, it is that Mr. Mercier was neither in a condition to require any inducements of the sort — nor Mr. Gaboury to attempt any such inducement. Mr. Gaboury, if I am not using too plain terms, as I hope I am not — and I certainly do not mean to do — Mr. Gaboury was Mr. Mercier's candidate. How wide from the fact, then, the notion must be that the money was paid to get what Gaboury had got already! What inducement could be required? Why, Mr. Mercier came there for no other purpose than to support him. P. 259, see Mercier's evidence: "C'est moi qui est allé me mettre à son service." Again, if this man is to be disqualified it is for having knowingly committed some *corrupt practice*. Now the payment denounced under s. 278 is certainly not a *corrupt practice* under the act. Sec. 248 says "any act or offence punishable under any of the provisions of sections 249, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261 and 262 shall be a corrupt practice within the meaning of the present act and of the Quebec controverted elections act, 1875." And sec. 267 gives us the *consequence* (viz., disqualification) of the *commission*