

sub-sec. 7, of the Municipal Act is defined as bribery; and the consequence of this by sec. 249 is the loss of his seat, and disqualification for two years. The evidence is only that Mr. Berthiaume went to Lariviere and asked him to furnish his rig or team, and he said "all right," and sent it with a driver, and it was used to draw voters. Nothing was said one way or the other about payment. Mr. Berthiaume did not ask the price or whether it was volunteered and Lariviere said nothing as to price. I think the presumption and legal conclusion must be that the rig was hired. If a man goes to a livery stable keeper, whose business is to let out horses and carriages and says he wants a horse and driver for such a day and nothing is said about payment, the presumption is that he is hiring it and is liable to pay what it is worth. Mr. Berthiaume, indeed says that he asked the rig from Lariviere because he thought Lariviere was strongly in his favour, and also because he has sometimes got rigs from Lariviere for nothing, as he had often hired rigs there for funerals (Mr. Berthiaume being an undertaker) and had been good to him; but this, I think, is all too indefinite to rebut the presumption of hiring. The team came and drew voters, and it came in consequence of Berthiaume's asking for it, and not from any offer of Lariviere's. Lariviere also furnished a team for the relator (a candidate for the office not of Mayor but of Reeve), shewing that it was a matter of business with him The great mass of corrupt practice set up dwindles down to this; and it seems too bad to unseat and disqualify Mr. Berthiaume for it, especially as Mr. Sabourin appeared to be just as bad, but I do not see any way out of it. The use of the teams probably did not affect a vote—they drew the voters indiscriminately—but the statute, sub-sec. 7 of sec. 245, is positive. It leaves no room for discussion as to motive as do the other sub-sections of this section. It simply and positively defines the hiring of horses, etc., to be bribery; and then sec. 249 declares that any candidate guilty of bribery shall be unseated and disqualified."

While the consequences of the learned Judge's finding are not disputed, it is argued with much force that an act involving penalties so serious should not be held to have been committed except upon clear and convincing testimony. As was well observed by Mr. Justice Gwynne in the *Welland*