

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, May 31, 1884.

Before JOHNSON, PAPINEAU and BUCHANAN, JJ.

LAVOIE, Petitioner, and GABOURY, Respondent, and LEBLANC, put in by answer to the petition, and ALDERIC OUMET, recipient of notice.

Laval Election Case—Quebec Election Act of 1875—Corrupt practice—Grounds for personal disqualification of candidate—Counter petition—Election—Notice to person charged with corrupt practice.

1. *Where the evidence of a corrupt promise by the candidate is contradicted in important particulars, and the candidate wholly denies it on oath, the Court will not base thereon a judgment of personal disqualification.*
2. *The payment of money by an agent to a canvasser will not be held ground for personal disqualification, unless it be shown that the candidate was aware of such payment.*
3. *The payment by the candidate himself of a sum of money for election purposes to a person concerned in his election, is a matter to be judged by the circumstances attending such payment, and where the payment in question was made to a person strongly in favour of the candidate, and who required no inducement to support him, it was held no ground for personal disqualification.*
4. *Until the exigency of the original writ of election is satisfied there is no election, and the several elections are considered one and the same election, even though the seat is not claimed for any one.*
5. *Under sections 272, 273 and 274 of the Quebec Election Act of 1875, a regular summons to a person charged with a corrupt practice to appear at a place, day and hour fixed, must be issued. If the party fails to appear, he may be condemned on evidence already adduced on the trial of the election petition, but if he does appear, the case is to go on as an ordinary case, and the judgment is to be given on evidence then to be adduced.*

JOHNSON, J. In this case the Court is called upon to give effect to statutes of the Parliament of this Province, that is to say, the

Quebec Election Act of 1875, and the Controverted Elections Act, with their amendments of the same year; and we are called upon to do this, not only on the main issue between the petitioner and the respondent, but upon the recriminatory charges brought by the respondent in his turn against Mr. Leblanc, who had been a candidate at the previous election and was also a candidate at this one, which for the purposes of the present case has been assumed to form part of the election of 1883—the first having failed to return a candidate who could hold the seat, and the two, therefore, being taken together as constituting one and the same election; and we are also called upon to apply the law with reference to the proceedings incidentally taken by the respondent against Mr. Ouimet professedly under sec. 270 of the Election Act.

Mr. Felix Lavoie, the petitioner, asked by his petition that the election of the respondent for the county of Laval should be set aside on all the grounds that could be alleged under the law; and it further prayed for the personal disqualification of the respondent for acts of corruption committed with his personal knowledge and participation.

This petition was filed on the 19th of July, and served on the respondent upon the 21st July, and he appeared by his attorneys on the 26th; and on the 27th July he filed his answer, which he intitled, *Réponse, contre-pétition et mise en cause.*

A question was raised as to whether the answer was in time; but that question has no importance with reference to the main issue on the petition itself—and obviously so—because the law says that if the answer is not filed in proper time, the issue is to be considered joined without an answer. Therefore, the motions made to get rid of this answer as filed too late will be considered by-and-by with reference to other interests, viz.: with reference to the interests of Mr. Leblanc and Mr. Ouimet whom, by this answer, or by means of the demands accompanying the answer and produced and filed with the answer, it was sought to put into the case; and that part of the case need not be further noticed now. It will suffice to say the answer to the petition was a general denial of its allegations—the rest of it, or of