

HON. MR. JUSTICE LATCHFORD.

MAY 2ND, 1913.

. REX EX REL. SABOURIN v. BERTHIAUME.

4 O. W. N. 1201.

Elections—Municipal Elections—Hiring of Team by Respondent—Bribery—Evidence — Disqualification—Evidence—Taken Down not Read to or Signed by Witnesses — Municipal Act ss. 245, 249, 220, 232—Con. Rules 456, 457, 458, 494—Naming of Witnesses in Notice of Motion Essential—Relator Guilty of Corrupt Practices—Effect on Status—Notice to Respondent as to Charges—Sufficiency of—Appeal — Cross-appeal—Findings of Judge—Costs.

LATCHFORD, J., *held*, that in a trial of a contested election under s. 232 of the Municipal Act it is not necessary that the evidence be taken down by the trial Judge, read over to the witnesses and signed by them.

That under ss. 222 and 248 of the Municipal Act which must be read together, no witnesses can be examined who name does not appear in the notice of motion.

That the fact that the relator had himself been guilty of similar corrupt practices did not disqualify him from acting as relator.

The Dufferin Case, Hodgins Elec. Cas. 529, and other cases referred to.

That it was unnecessary to warn the respondent that his disqualification was sought, notice that he was accused of acts of bribery being sufficient.

Appeal from the order of HIS HONOUR ADAM JOHNSTON, Esq., Junior Judge of the United Counties of Prescott and Russell, dated the 18th March, 1913, declaring that the election of the appellant as Mayor of the town of Hawkesbury for the year 1913, is void, and that appellant is disqualified from being a candidate for any municipal office and from voting at any municipal election or upon any by-law for a term of two years from the date of the said order.

The disqualification resulted from a finding of the learned Judge that appellant had hired a team from a livery stable keeper for the purpose of conveying electors on the day of the poll.

A. Lemieux, K.C., and E. Proulx, for appellant.

N. A. Belcourt, K.C., and O'Brien, for relator.

HON. MR. JUSTICE LATCHFORD:—The principal grounds of the appeal are that there was no admissible evidence upon which the Judge could properly find Berthiaume had committed bribery within the meaning of sec. 245 of the Municipal Act, 3 Edw. VII., ch. 19; that that evidence, especially the evidence of the livery stable keeper, Lariviere, was