didate found guilty of bribery in any proceeding in which after notice of the charge he has had an opportunity of being heard (the same words as our English statute) shall be disqualified; and in the Bewdly case (1 O. & H. 176) Blackburn, J., held that the mere report of a judge did not disqualify an elector under sec. 45. He said: "The report of a judge is not a determination of the case, except incidentally. He has only to make a report, and it can hardly be said that that is the same as finding a man guilty.

This decision of Blackburn, J., was referred to with approval by the select committee appointed in April, 1870. In the opinion of the committee the distinction between 'found guilty' and reported guilty is substantial and not formal.

Again, the sec. 3 of the amendment of the Quebec Controverted Elections Act of 1875 provides for certain cases where agents may be condemned jointly and severally with the respondent to pay costs. Even in such cases as that, the judge is ordered to summon the agent, and if he does not appear he may be condemned on the evidence already adduced; but if he does he can only be condemned upon evidence and after hearing as in an ordinary case, and in the same way as provided in sections 272, 273 and 274. If such are the care and circumspection of the law with respect even to a condemnation for costs, we may well conclude that we do right in exacting at least the same, before we disqualify any man from sitting in Parliament or holding office under the crown.

The result, then, of our labours in this protracted case need now only to be shortly stated. We avoid this election, and to that extent grant the prayer of the petition, with costs against Dr. Gaboury up to the time of his admission of the sufficiency of the evidence to justify that decision. With respect to the proceeding of the petitioner to disqualify Dr. Gaboury, we dismiss that part of the prayer of the petition; but with respect to costs, exercising the powers conferred on us by sections 123 and 124 of the Election Act, we consider that although Dr. Gaboury is not disqualified, the proceedings against him for that object are far from being capable of being considered vexatious; but rest upon *prima facie* grounds. He made an illegal payment to a person other than his regularly appointed agent—a payment which has led to the principal difficulty in deciding this case; and we condemn each of the parties to that part of the case to pay his own costs. As regards the contest between Dr. Gaboury and Mr. Leblanc respecting the conduct of the latter—the recriminatory demand of Dr. Gaboury is dismissed, each of the parties also paying his own costs.

Finally, as respects the charges against Mr. Ouimet, a majority of the court holds that he is not before the court at all, and being in the position of a man who has been improperly brought here, we dismiss the charges against him, and he is entitled to his costs against the party who brought those charges. We hold, (that is, Mr. Justice Buchanan and myself hold,) that there is all the difference possible between saying that a man may be found guilty after notice, and saying that the notice alone can put him upon his trial, especially when we find the precise mode of proceeding presented in the next section but one. We think with Blackburn, J., that there is a substantial difference indeed between finding a man guilty, which would subject him to the penalties of guilt, and reporting what the evidence may *prima facie* prove against him—upon which report a prosecution might afterwards lie in which he could defend himself. But we can report without any notice; whereas we hold we cannot find guilty upon a notice alone, and set aside the prescribed mode of procedure in the statute. We say, therefore, that Mr. Ouimet has been proceeded against with a view to his disqualification illegally, and that having to appear and show the illegality of that proceeding, he is entitled to his costs against the party who took that proceeding, and we condemn Dr. Gaboury to pay those costs.

The Court desires to add one word—not of complaint, nor yet exactly of remonstrance—both of them words that are unpalatable; but we feel that some observation is called for on professional and on public grounds with respect to the useless and extraordinary complexity and confusion of these proceedings. Two heavy folio volumes of evidence, without division or classification of subjects, would seem to be too much to require as a general thing in order to reach the truth in a Provincial election petition. The hearing of this evidence, easily and advantageously reducible to one-third of its present bulk, took one judge of this court very nearly two months from the performance of his ordinary duties, while to say nothing of incidental motions and arguments requiring the services of three other judges at various times, the present members of this court have been sedulously intent, for one whole week, to the exclusion of all other business, upon the grounds of final investigation and decision of this case. If the exact measure of justice, under such circumstances, has not been awarded in every sub-detail of the endless intricacies of this case, the fault will not have been entirely ours.

Election annulled.

Boisvert for Petitioner.
Trudel & Co. for Respondent Gaboury.
Boisvert for *mis en cause* Leblanc.
Cornellier for Ald. Ouimet.

In the case of *Choquette & Hébert* (p. 178) Dorion, C.J., did not sit.