

said anything *corruptly* to induce the above mentioned persons to vote for the respondent or to act in furtherance of his election, or to constitute a violation of the 96th section of the Act, and consequently to avoid the election under this section; and if not, was the giving of the passes in question a violation of section 92, sub-sections 1 and 3, and consequently a corrupt practice within the Act?

I think the evidence of Lamarche himself and of Louis Tranchemontagne, although not *very* strong, under all the circumstances sufficient to constitute him respondent's electoral agent and to hold him, respondent, responsible for his acts as such in relation to the election.

I need hardly say that I come to this conclusion after a careful reading of the authorities cited at the argument, and others not cited,—and here I wish to say that I do not propose to lengthen this judgment by incorporating citations of authority, with which the profession and more particularly the gentlemen engaged in this case are already familiar, whilst such citations would be but of doubtful value to the ordinary non-professional reader.

The next question to be answered under this first charge or head of objection is this: Has the respondent or his agent violated the 96th section of the Act by "Hiring or promising to pay, or paying for any horse, team, carriage, cab, or other vehicle, by any candidate or by any person on his behalf, to convey any voter or voters, to or from the poll, or to or from the neighbourhood thereof at the election."

Under the provisions of sec. 98, a violation of sec. 96 is a corrupt practice, is bribery, and consequently attaches, to both principal and agent, a highly penal breach of the law, and entails upon them both very severe punishment; hence, and by all the authorities the proof of such violation must be strong and conclusive. Have we proof of such violation in this case? I think not. There is no satisfactory or sufficient proof of the hiring or promising to pay, or paying for any horse, team, &c., as prohibited by the section, or of the payment of travelling and other expenses of any voter in going to or returning from the election in question, nor of any unlawful acts in respect thereof to affect either the respondent or the agent, and consequently no proof of

corruption under this charge within the meaning of the Act. On the contrary, I am satisfied from the proof and circumstances that the railroad ticket agent, with what degree of propriety it is not for me to decide here, gave the passes on which said voters went to the polls gratis, and that they were never paid for, nor promised to be paid for, and that the proof fails to bring the charge under this head of objection within the provisions of the said 96th section of the Act, and the respondent is entitled to a finding in his favour in this particular.

But the petitioners contended at the argument that the passes given to the voters by Lamarche were things of value, and that they were given as a "valuable consideration" to induce said voters to vote for respondent at the election; thus *arguendo*, contending that respondent by his agent had made himself amenable to the provisions of sec. 92, sub-sec. 1 of the Act, and thus that he was guilty of bribery through his agent within the meaning of said section.

This proposition raised the question which has not, so far as I know, been as yet extensively discussed in the trials of election cases; as to whether a Railroad pass given *gratis* and unconditionally to a voter to go to vote, is within the meaning of the Sec. 92 Sub-section 1, a "valuable consideration" or of any such value as would support a promise.

In disposing of this question I cannot do as well as to refer to the judgment of Mr. Justice Mellor in the Bolton case, 2nd O'Mally & Hardcastle, pp. 147, 8, 9.

Before seeing this authority (for I think it was not referred to at the hearing) I felt inclined to say after much anxious consideration, that tickets, given as those in question were, were not "valuable consideration" in the sense of, or within the meaning of the Act. In my uncertainty on this point, I need not say that I felt relief in finding authority so strong and in the direction of my own timid inclination.

I am of opinion that the passes so handed to these voters unpaid for, as Lamarche swears on cross-examination, and presented to the voters under the circumstances proved in this case, do not constitute the "valuable consideration" to them contemplated and prohibited by the statute, and that the passes in question are not such consideration within the meaning and in-