

Held, that the assignee had a right to select the exemptions in the absence of a selection by the assignor, and having appropriated only a portion of the property coming under the head of necessities exempted by the statute, and left over \$500 worth, was not liable to an action for the value or proceeds of the portion sold.

Appeal from RICHARDS, J., dismissed with costs.

Howell, Q.C., and *Mathers*, for plaintiff. *Tupper*, Q.C., and *Phippen*, for defendant.

Bain, J.]

IN RE ST. BONIFACE ELECTION.

[March 10.

Election petition—Preliminary objections—Proof of deposit of security required—Evidence that notes deposited were current money of Canada—Notice of presentation of petition—Manitoba Controverted Elections Act, R.S.M. c. 29, s. 22.

Hearing of preliminary objections to an election petition.

Counsel for respondent contended that it was necessary to prove that the Dominion notes deposited as security on the filing of the petition were genuine notes and signed by the proper officials with the same strictness as would be required in proving any other documents before the Court, and that the identical notes must be produced on the hearing. It was shown that all the notes in question had been handed out by one bank to the petitioner's solicitor as Dominion notes in payment of a cheque, that they had been deposited with the prothonotary as security, and that the latter had deposited them with another bank which received them as cash. One of the notes was for \$500 and was produced and identified at the hearing, but the others had been paid out in the course of business, and could not be traced.

Held, that the evidence adduced was sufficient to prove that the petitioner had furnished the security required by section 22 of the Manitoba Controverted Elections Act, R.S.M. c. 29. Such notes being legal tender by statute are treated to all intents and purposes as money or cash and cannot be compared to ordinary promissory notes or evidences of debt: *Miller v. Race*, 1 Smith's L.C. 468.

The petition filed asked not only that the election be declared null and void, but also that the respondent should be personally disqualified, but the notice of presentation that was served contained no reference to the latter part of the petition.

Held, following *Randal v. Powell*, 34 C.L.J. 634, that this was not necessary.

Andrews and *Bernice*, for petitioner. *Wilson*, for respondent.