

Province of Manitoba.

COURT OF APPEAL.

Full Court.] IN RE MORRIS ELECTION. [Oct. 18, 1907.

Election petition—Preliminary objections—Proof that deposit made in current money of Canada—Affidavit verifying petition—Scrutiny of votes and correction of return—Proof of petitioners' status—Allowing additional evidence to prove status—Want of prosecution.

The following points were decided by Mathers, J., on preliminary objections.

1. It is sufficient proof that the deposit required by section 22 of R.S.M. 1902, c. 34, for security for costs has been made in current money of Canada, when the identical Dominion notes handed to the prothonotary are produced, and the prothonotary swears to such identity, and a bank official with ten years' experience swears that they are genuine Dominion notes, that he recognizes them by the paper and the scroll upon them and by their general appearance, although he does not know by whom the notes should be signed or the genuineness of the signatures.

2. It is not necessary that any affidavit verifying the petition should be presented with it. Such affidavit is not required by the Manitoba Act, although it is required by the corresponding Dominion Act. Section 10 of the Manitoba Act does not empower the judges to make a rule limiting the right of an elector to present a petition to those electors who might be able to make such an affidavit, as that would be inconsistent with section 14 of the Act, which says that an election petition may be presented by any elector who had a right to vote at the election in question. Consequently the provision in the Dominion Act referred to is not, by virtue of section 13, brought into force in Manitoba.

3. Since a deposit in money has been substituted for the recognizance or bond required by rule 11 of the rules made by the judges of the Court under the powers conferred by section 10 of the Act, it is no longer necessary to serve any notice of the furnishing of security.