A study of the evidence does not enable me to say that the appreciation of the credibility of the respective witnesses by the learned trial judges should not be accepted; neither does it disclose any ground which would justify a reversal of the findings of fact set out in their certificate.

Counsel for the appellant urged that one of the two items above mentioned as having been paid through the official agent and omitted from his return—$68 for the services of a band on the evening of polling day—should not properly be classed as an election expense. The statute (s. 79 (1) (a)) expressly requires that the official agent's return shall contain detailed statements of " all payments made by the official agent." I can see no justification for omitting this item from the official agent's return of "election expenses." The evidence rather indicates that it was so omitted deliberately and because in the opinion of the candidate and some of his friends it was thought advisable to conceal it.

I am of the opinion that it is not possible upon the record before us to set aside any of the findings made by the learned trial judges except that contained in their " determination," but not in their certificate, that the Paris Cafe account and the Pearce Band account were paid more than fifty days after the respondent was declared elected contrary to s. 78 (9) of the statute. The evidence does not appear clearly to support that finding.

(*d*) That the findings so made justified the " determination " that the election of the respondent was void I think admits of no doubt. The acts found to have been committed are declared to be, some of them illegal practices (Dominion Elections Act, s. 78 (4) (7)), and others corrupt practices (Dominion Elections Act, s. 79 (9); Controverted Elections Act, s. 2 (f). Those acts having been committed by " a candidate at an election " who has been declared elected, and also by his official agent, s. 51 of the Controverted Elections Act (1921, c. 7, s. 4), clearly avoids the election. Parliament in its wisdom and after long experience has attached that consequence to corrupt practices and illegal acts such as the respondent and his official agent are found to have committed. We have no discretion in the matter. Our plain duty is to administer the law as we find it.

Counsel for the appellant pressed for a declaration that his client is not subject to the personal disqualification provided for by sections 39 (a) and 87 of the Elections Act. But that question is really not before us. The learned judges of the Election Court have not certified to such disqualification. They have found certain facts and have determined that upon the facts so found the respondent's election is void and they have certified these findings as required by the Controverted Elections Act, s. 68. On the present appeal from the judgment of the Election Court it is not part of our duty, as I understand it, and it would therefore be an impertinence, to express an opinion whether the findings so made and certified entail disqualification of the respondent. While that may follow as a consequence, it is not so held in the judgment of the Election Court. Upon the correctness of that judgment—and upon that only—are we called upon to pass.

I would for these reasons dismiss this appeal with costs.

BRODEUR, J.

The first question we have to decide is whether the judges of the Court of King's Bench of Saskatchewan have jurisdiction to try Dominion election petitions.

By virtue of the provisions of the Dominion Controverted Elections Act, as amended in 1915, the court which had jurisdiction over such election petitions was the Supreme Court of the Province.