

the nature of the security in order that he might at once within the limited time object thereto if given by, or partly by, recognizance. There is a similar provision in the English Controverted Elections Act, 1868, and in the Municipal Election Act, 1872, under the latter of which the case of *Williams v. Mayor of Tenby*, 5 C.P.D. 135, was decided. It was held that the omission to serve notice of presentation of the petition and of the nature of the proposed security, was a condition precedent to the maintenance of the petition, and was a thing imperatively required to be done. In giving judgment, Grove, J., remarks, "It is said that there would be hardship supposing money deposited if mere omission of notice should prevent a petition. I see no more hardship than may occur in any case where a definite time is to be observed, and I see good reason why it should be so. There are two alternatives given, and it is reasonable that the party should know which has been adopted, money deposit or recognizances, and if the latter that he should be set instantly on enquiry, whether the securities are good and valid or not—and not only is the person depositing the security limited as to time, but the person objecting to the security is limited likewise."

Had our Controverted Elections Act remained in the same terms in this respect as when it was first enacted, this decision would no doubt strongly support the respondent's objection. It was, however, amended by 39 Vict., c. 10, s. 29, and security was thenceforward required to be given solely by the deposit of a sum of \$1,000, and in the revision of the statutes in 1877, the Commission taking notice of this, omitted that part of the section corresponding to s. 8 above cited, which required notice of "the nature of the proposed security" to be given, though they left that part of it which required service of notice of the presentation of the petition, and so the statute law still stands. The Dominion Act, R.S.C. c. 9, s. 10, still requires notice of the presentation of the petition "and of the security" to be given, and within five days after the petition has been presented, although the security is also by deposit of money only, which is to be made at the time of presentation of the petition.

So far as the Ontario Act is concerned no form of notice of presentation is prescribed. It does not seem necessary that it should specify either when the petition was filed, or when the security was given. The language of the section would be satisfied by a mere notice that a petition had been presented in respect of such and such return under the Act. Had it been required to be signed by the petitioner I might have inferred that the notice was to serve some purpose of verification, and to identify the copy of the petition to be served with that which the petitioner had sworn to. But this is not prescribed. It is difficult to see what purpose is served by a notice of presentation which would be sufficient within the Act, which is not equally well served by the endorsement which appears in the copy of the petition served on the respondent. The reasons which seemed unanswerable in the *Tenby* case, have here no place, looking at our different legislation. I think, therefore, that the motion must be dismissed, but it is not a case for giving costs to the respondent.