

Mr. Watson objected:—

(1) That there was no jurisdiction to make the order of 2nd December; that the 10 days allowed by sec. 18 for service having expired, and no application having been made within the time for an allowance of further time, the matter was at an end.

(2) That, even if there was power to make the order after the expiration of the 10 days, the order actually made was not authorized, because it was not shewn that there were in this case any special circumstances of difficulty in effecting personal service.

(3) That the service actually made upon Roland Glover should not be deemed personal service, or allowed.

It was objected that the questions now raised are not preliminary objections within the meaning of the Act. I do not feel quite sure that the question of jurisdiction to make the order is such preliminary objection.

Section 19 deals with what may be done "after the service of the petition and the accompanying notice." "The respondent may present . . . preliminary objections or grounds of insufficiency against the petition or the petitioner, or against any further proceeding therein."

It was held in the Montmagny Dominion Election Case, 15 S. C. R. 1, that "service not made when it should have been made," and "that service was not made on the person to whom it should have been made," were properly preliminary objections, and these were dealt with by the Court.

In the South Leeds Dominion Election Case Mr. Justice Osler held, 27th June, 1891, that the objection that a proper notice was not served with the petition ought not to be considered as a preliminary objection, but should be taken by way of motion to set aside the petition.

Having regard to the Montmagny case and sec. 64 as to what is appealable, I treat these objections as preliminary ones, or, at all events, as objections I have power to deal with. Mr. Watson abandons all other objections; logically he must do so, as, according to his contention, there has been no service. I do not think the respondent should be considered as having waived his right to press the objections named, by reason of putting them in after the so-called service relied upon by the petitioner.

Upon the argument the respondent's affidavit was filed, and he was present in person, and his evidence was tendered upon any point upon which information was desired by the