

1892

*Feb. 16

CONTROVERTED ELECTION FOR THE ELECTORAL DISTRICT OF ARGENTEUIL.

THOMAS CHRISTIE (RESPONDENT).....APPELLANT ;

AND

GEORGE MORRISON AND OTHERS }
(PETITIONERS)} RESPONDENTS.

ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT FOR LOWER CANADA.

Election petition—Preliminary objections—Deposit of security—R.S.C. ch. 9 sec. 9 (f).

The preliminary objection in the case was that the security and deposit receipt were illegal, null and void, the written receipt signed by the prothonotary of the court being as follows:—"That the security required by law had been given on behalf of the petitioners by a sum of \$1,000 in a Dominion note, to wit, a bank note of \$1,000 (Dominion of Canada) bearing the number 2914, deposited in our hands by the said petitioners, constituting a legal tender under the statute of the Dominion of Canada now in force." The deposit was in fact a Dominion note of \$1,000.

Held, affirming the judgment of the court below, that the deposit and receipt complied sufficiently with the section 9 (f) of the Dominion Controverted Elections Act.

APPEAL from a judgment of the Superior Court for Lower Canada (Taschereau J.) dismissing the preliminary objections filed by the appellant to the election petition contesting his return as member of the House of Commons for the electoral district of Argenteuil.

The preliminary objection relied on by appellant on the appeal to the Supreme Court was as follows:

"Because no proper or sufficient certificate or receipt of deposit of security was granted by the prothonotary and clerk of said court and no deposit of money such as required by law was made by petitioners or in this case for security and no such bank or bill as is described in the pretended deposit receipt filed in this case and in the copy thereof, served on respondent, existed or

*PRESENT:—Sir W. J. Ritchie C.J., and Strong, Taschereau, Gwynne and Paterson JJ.

exists, and the said pretended security and deposit receipt were and are wholly illegal, null and void."

The prothonotary's receipt was as follows :

" We moreover certify and acknowledge that the security required by law has been this fourth day of May (1891) instant given on behalf of the petitioners by a sum of \$1,000 in a Dominion note, to wit, a bank note of \$1,000 (Dominion of Canada), bearing the number 2914, deposited in our hands by the said petitioners, constituting a legal tender under the statute of the Dominion of Canada now in force."

Code, for appellant, contended that the prothonotary having described in his receipt the note deposited to be a bank note, the deposit was not according to the terms of the statute which requires the deposit to be made in gold coin or Dominion notes, being a legal tender under the statutes of Canada.

H. Abbott Q.C. for respondents was not called upon.

Sir W. J. RITCHIE C.J.—I am of opinion that there is nothing in the appellant's objection and that this appeal should be dismissed with costs. It is clear that a Dominion note was deposited and there was no necessity to take evidence to explain the character of the deposit. There is now in the hands of the prothonotary a Dominion note for \$1,000, which is available for the purposes of this appeal.

STRONG J.—I am entirely of the same opinion. I will only add that I am surprised that an appeal should have been brought to this court upon such an utterly unfounded objection.

TASCHEREAU, GWYNNE and PATTERSON JJ. concurred.

Appeal dismissed with costs.

Solicitor for appellant: *R. P. de la Ronde.*

Solicitors for respondents: *Abbotts, Campbell & Meredith.*