

other persons accused of having committed offences in the city of Toronto. At the opening of the trial counsel for the prisoner objected that the Judge had not, either by virtue of the Liquor Act or in consequence of any proceedings had thereunder, acquired jurisdiction to try and convict the prisoner. The objection being overruled, the trial proceeded, and the Judge having heard the evidence found and adjudged that the prisoner had committed and was guilty of the corrupt practice of personation. He thereupon ordered and adjudged that the prisoner pay to the County Crown Attorney for the county of York the sum of \$400, the money penalty mentioned in sec. 167 (2) of the Ontario Election Act, and also the costs of the prosecution, which he directed to be taxed by one of the taxing officers of the High Court of Justice. He further directed that if the said sum of \$400 and the amount of the costs so to be taxed were not paid within thirty days from the 19th February, 1903, the prisoner should be imprisoned in the common gaol of the county of York for three months without hard labour, unless the said sum and costs were sooner paid. And he also adjudged that the prisoner for his said offence be imprisoned in the common gaol of the county of York without hard labour for the term of one year.

Under a warrant dated the 20th February, 1903, addressed to the sheriff of the county of York and others and to the keeper of the common gaol of the county, and directing the commitment of the prisoner, he was taken to and confined in the county gaol. The warrant recited that the time appointed by the order of the Judge for the payment of the said several sums of money had elapsed and that the prisoner had not paid the same or any part thereof, but had made default. This was a manifestly erroneous statement, for the thirty days for payment only commenced to run from the 19th February, and the amount of the costs had not even been ascertained or settled by taxation or otherwise.

The application for the prisoner's discharge was based on numerous exceptions to the proceedings. Included in them were objections to the validity of the Liquor Act, 1902, and in consequence thereof the Court directed notice of the argument to be given to the Attorney-General for the Dominion, who, however, intimated that he did not desire to be heard.

The case was heard by MOSS, C.J.O., OSLER, MACLENNAN, GARROW, and MACLAREN, JJ.A.

W. J. Tremear, for the prisoner.

J. R. Cartwright, K.C., for the Crown.