

Full Court.]

[Dec. 23, 1896.]

CROTHERS v. MONTEITH.

Liquor License Act, R.S.M. c. 90, s. 35—Cancellation of license—Prohibition—Implied authority.

Judgment of Bain, J., noted ante vol. 32, p. 681, affirmed with costs.

Wade, for plaintiff.

Maclean, for defendants.

Full Court.]

[Dec. 23, 1896.]

IN RE MARQUETTE ELECTION.

Election petition—Preliminary objections—Affidavit of petitioner—54, 55 Vict., c. 20, s. 3—Examination of petitioner.

In this case, no preliminary objections having been filed, and the petition being at issue, the petitioner was examined on his statement in the affidavit filed in accordance with the Act 54, 55 Vict., c. 20, s. 3, "that he had good reason to believe, and verily did believe, that the several allegations contained in the said petition are true."

The petitioner's answers upon such examination showed that his information was based on common rumor and newspaper reports, that he could not remember the name of any person who had made a specific charge of any of the corrupt practices alleged in the petition; that although he said he believed the charges to be true, he knew nothing personally of the truthfulness of them, and he admitted that he had no reason to suppose that the respondent had been personally guilty of bribery as charged in the petition.

Held, that the statute required a true affidavit to be filed with the petition, and that the respondent might take the objection if he brought it to the notice of the Court within a reasonable time after he discovered it, notwithstanding the time was passed for filing preliminary objections under section 12 of the "Dominion Controverted Elections' Act," and that the Court had under section 2, ss. (j), the same power at any time to correct an abuse of its process or to punish a fraud attempted to be practised upon it, as it would have in any ordinary cause within its jurisdiction; and that on account of the proved falsity of the affidavit, all proceedings on the petition should be stayed with costs.

Per TAYLOR, C. J. : Even if the examination on the affidavit was ultra vires and unauthorized by the statute, no objection was taken to it at the time, and besides the Court can of its own mere motion, and at any time, direct an inquiry as to any fraud practised upon it, or any improper use of its process and punish the same, if discovered : *Dungey v. Angora*, 2 Ves. 304.

Howell, Q.C., for the petitioner.

Tupper, Q.C., and *Phippen*, for respondent.

Full Court.]

Dec. 23, 1896.]

RE MACDONALD ELECTION.

Election petition—Preliminary objection—Affidavit of petitioner—54, 55 Vict., c. 20, s. 3—Examination of petitioner.

This case was similar to the Marquette election case above noted, but with this difference, that although the examination of the petitioner was