

in a common gaming house within the limits of the City of Montreal. The section referred to empowers "the Chief Constable or deputy Chief Constable of any City or Town, or other officer authorized to act in his absence," to make the reports and seizures provided for therein.

*Held*, Girouard, J., dissenting, that an officer whose functions and duties are of a character sufficient to bring him within the designation of the officer named in the section is competent to execute warrants and make seizures under it, although his office may not bear the exact title given in the code.

That the High Constable of the District of Montreal has power to appoint a deputy to perform acts of a ministerial nature under the provisions of section 575 of the Criminal Code.

That a seizure under the 575th section of the Criminal Code by a person exercising *de facto* the duties of Deputy High Constable, is sufficient upon which to ground a confiscation under that section.

That notwithstanding the omission to be re-sworn, the executing officer in this case was not only *de facto*, but strictly *de jure* the deputy chief constable for the District of Montreal, and an officer in all respects competent to act under section 575 of the Criminal Code, and even if he had merely filled the office *de facto* the proceedings taken by him could not be vitiated by reason of his failure to be re-sworn.

In an action to revendicate the moneys so seized, the rules of evidence in civil matters prevailing in the province would apply, and the plaintiff could not invoke "The Canada Evidence Act, 1893" so as to be a competent witness in his own behalf in the Province of Quebec.

*Held*, per Sir Henry Strong, C.J., that a judgment declaring the forfeiture of moneys seized under the provisions of section 575 of the Criminal Code, could not be collaterally impeached in an action of revendication brought against the high constable and the clerk of the peace for the specific recovery of the moneys confiscated.

Appeal dismissed with costs.

*Guerin* for the appellant.

*Hall, Q.C.*, for the respondent.