

At the trial prisoner's counsel contended that there was no authority for the deputy-returning officer to administer an oath to any person but an elector, and relied on a strict construction of section 45 of the Dominion Elections Act, R.S.C., c. 8, as amended by statute 51 Vict., c. 11, s. 7. The judge reserved a case for the opinion of the court as to whether the prisoner could properly be convicted. It appearing that he was not an elector, and had no right to vote at such election,

Held, that the statute must receive a reasonable construction, and that authority was intended to be conferred upon the officer to administer the oath to any person presenting himself and claiming to be an elector entitled to vote.

Tribunals of limited jurisdiction have implied authority to receive proof of the facts on which their right to exercise their jurisdiction depends.

Regina v. Proud, L.R. 1 C.C. 71, followed.

Conviction sustained.

Phippen for the prisoner.

Howell, Q.C., for the Crown.

BAIN, J.]

[May 25.]

IN RE COMMERCIAL BANK OF MANITOBA.

REV. DR. ROBERTSON'S CASE.

Winding up—Insolvent bank—Fraudulent preference—Withdrawal by bank president of customer's deposit.

This was an application by a depositor to be treated as a holder of \$1,200 of the notes of the bank being wound up, the liquidators contending that he must rank only as an ordinary depositor. The circumstances were as follows: The claimant, having \$1,200 on deposit in the bank, and being about to go on a journey, left a cheque for that amount with the president and general manager of the bank, payable to his order, so that he might invest it for the claimant in a mortgage as soon as suitable security could be found. On the last day before the suspension of the bank, no investment having yet been found for the money, the president, in order to protect the claimant, indorsed the cheque, drew the amount in notes of the bank from the teller, placed the notes in an envelope, which was then sealed up, addressed to Dr. Robertson, with the words "Twelve Hundred Dollars" written on it, and placed in the vault of the bank. The package was found there when the liquidators came into possession on the commencement of the winding-up proceedings a few days afterwards.

Held, that the cheque having been indorsed and the bank notes drawn without the authority of the claimant the notes were still the property of the bank, and that the claimant must rank only as an ordinary creditor.

If the package had been lost or destroyed, the claimant might have repudiated the action of the bank's president, and insisted on being treated as an ordinary creditor; and if, on the other hand, he had received the notes, the payment might probably have been set aside as a fraudulent preference.

Colin H. Campbell, Q.C., for the claimant.

Phippen for the liquidators.