

to \$1,500, and was paid on the 1st May, 1916. The company became financially embarrassed, and on the 27th February, 1917, an order was made, under the provisions of the Winding-up Act, R.S.C. 1906 ch. 144, declaring it insolvent and directing that it be wound up in the Master's office. In the course of his inquiries the Master found in effect that the company was insolvent when the dividend was paid, that its payment diminished the company's capital and was therefore illegal, and that in consequence the appellants were liable to the extent of \$1,500 and interest. This finding of fact was fully supported by the evidence.

It was not material to the question involved in the appeal to determine the precise extent of the company's insolvency when the dividend was paid. The evidence shewed that at that time the capital stock was greatly in excess of the value of the assets, and that the payment of the dividend to the extent of \$1,500 further diminished the capital. In these circumstances, the Master was right in holding that, under the provisions of the Ontario Companies Act, R.S.O. 1914 ch. 178, sec. 95, the appellants were liable to make good the dividend thus illegally declared and paid, together with interest thereon. The finding was affirmed by the order of the late Chief Justice of the King's Bench, and the appeal from his order should be dismissed.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

MARCH 26TH, 1920.

*RE McCARTY.

Principal and Agent—Power of Attorney—Authority to Convey Lands—Provision that Power not to be Revoked by Death of Donor—Powers of Attorney Act, R.S.O. 1914 ch. 106, secs. 2, 3—Absence of Provision Authorising Conveyance in Name of Representatives—Construction of Instrument—Land Titles Act—Transfer of Land by Instrument Executed in Name of Deceased Donor—Validity.

Appeal by Thomas McCarty from the judgment of MIDDLETON, J., 17 O.W.N. 270, 46 O.L.R. 405, upon a case stated by the Master of Titles.

The appeal was heard by MULOCK, C.J. Ex., CLUTE, RIDDELL, SUTHERLAND, and MASTEN, JJ.

William Proudfoot, K.C., for the appellant.

E. C. Cattanach, for the Official Guardian.

F. B. Brennan, for the Attorney-General.

A. M. Denovan, for the purchasers.