

J. R. Cartwright, K.C., and D. J. Donahue, K.C., for the Crown, shewed cause.

STREET, J.—The main objection to the conviction was that the Legislature had not properly constituted any court or given to any person the necessary authority to try and convict and sentence persons for infraction of the Liquor Act, 1902. The only provision of the Act which can be said to constitute or authorize a Court to deal with offences is subsec. 4 of sec. 91: "In case a county . . . Crown Attorney is informed or has reason to believe that any corrupt practice or other illegal act has been committed in his county or district in connection with the voting . . . he shall forthwith notify the President of the High Court at Toronto, who shall designate a Judge of a County or District Court of a county or district other than that in which such offence was committed, to conduct the trial of the persons accused, and the procedure thereon shall be the same as nearly as may be as on the trial of illegal acts under sec. 188 of the Ontario Election Act and amendments thereto. While this language falls far short of what one would expect to find in a section intended to create a new tribunal for dealing with an offence created by the statute of which it forms part, yet there is no doubt that the Legislature did intend to declare that persons committing certain specified acts should be liable to certain prescribed punishments, and did intend by this subsection to create a tribunal with authority to try them. "The President of the High Court at Toronto" may without difficulty be taken to mean "The President of the High Court of Justice for Ontario." If the words "to conduct the trial" are to be read in their strict literal sense, and as meaning merely that the Judge designated is to preside upon the hearing of the evidence for and against the person charged, the result is to make the clause useless, because no other provision is made for bringing the person charged before the Court for trial, or for sentencing him afterwards. Having in view the plain general intention of the Legislature, it is the duty of the Court to struggle to give to the language of the section a construction which will best carry that intention into effect. It may be gathered that the intention was to create a Court consisting of the Judge designated for each case by the President of the High Court of Justice for the trial of the person charged, and to give to the Court so created, under the general power "to conduct the trial," the power to bring the person charged before the Court, to try him for the offence, and to sentence him if found guilty, for all these powers are