

have any interest in the property, they must be taken to have intended to deal with W. as owner of the property, and the contract of insurance was complete.

Appeal allowed with costs.

Graham, Q. C., for appellants.

Henry, Q. C., for respondents.

New Brunswick.]

MARITIME BANK OF CANADA V. THE RECEIVER
GENERAL OF NEW BRUNSWICK.

*Insolvent bank—Winding-up Act—Assets—
Crown prerogative—Right of Provincial
Government to exercise—Lien.*

The Government of New Brunswick, as creditors of the insolvent Maritime Bank of Canada, claimed a first lien on the assets of the bank, as representing the Crown in the Province.

Held, reversing the judgment of the Supreme Court of New Brunswick, Gwynne, J., dissenting, that the Government was entitled to such lien; But

Held also, Strong and Taschereau, J.J., dissenting, that the lien was to be exercised only after the note-holders were paid, the prerogative being postponed to the lien of the note-holders by virtue of Bank Act, R. S. C. c. 120 s. 79.

This case was decided by Strong, Fournier, Taschereau, Gwynne and Patterson, J.J.

A. A. Stockton and *C. A. Palmer*, for appellants.

Blair, Atty. Gen. of New Brunswick, and *Barker, Q. C.*, for the respondents.

New Brunswick.]

MARITIME BANK OF CANADA V. THE QUEEN.

*Prerogative of Crown—Insurance Company—
Money deposited in insolvent bank—Lien for.*

The Dominion Safety Fund Life Association, a mutual insurance society doing business in Canada, deposited \$45,000 in the Maritime Bank of Canada at St. John N. B., and sent the deposit receipt to the Receiver General of the Dominion to hold as the deposit of the Association with the Government as required by the Insurance Act, R. S. C. c. 124. The Maritime Bank having become insolvent a claim was made by the Dominion Government for this sum of \$45,000 and a

further sum of \$15,000 held on ordinary deposit in the bank by the Crown to be recognised as Crown monies and entitled to a first charge upon the assets.

Held, affirming the judgment of the Supreme Court of New Brunswick, Gwynne, J., dissenting, that the Dominion Government as representing the Crown in Canada was entitled to a first lien upon the assets of the insolvent bank in respect to the said sum of \$15,000, and that the lien was not taken away by the section of the Bank Act R. S. C., c. 120, which gives note holders a first lien on such assets, it not being competent for the legislature to deprive the Crown of its prerogative except by express words to that effect. See The Interpretation Act, R. S. C. c. 1, s. 7 subsec. 46.

Held, also, reversing the judgment of the Court below, Strong, J., dissenting, that the Government could not claim such lien in respect of the sum deposited by the insurance association, it not being public money but held by the Crown merely as trustees for the society.

The judges deciding this case were Sir W. J. Ritchie, C. J., and Strong, Taschereau, Gwynne and Patterson, J. J.

Appeal allowed as to the sum of \$45,000; and dismissed as to the sum of \$15,000.

A. A. Stockton and *C. A. Palmer* for the appellants.

Weldon, Q. C., and *Barker, Q. C.*, for the respondents.

FIRE INSURANCE.

(By the late Mr. Justice Mackay.)

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CHAPTER I.

OF THE CONTRACT OF INSURANCE, HOW MADE,
WHEN PERFECTED, AND OF THE APPLICATION.

(Continued from page 159.)

In *Tough v. Provincial Insurance Co.*,¹ an interim receipt given in the country by an agent was cancelled from the Head Office by mail within the 30 days. A fire occurred before the arrival of the mail at the insured's residence. It was held by the Court of

¹ 17 L. C. Jurist.