

COURT OF QUEEN'S BENCH.

(Crown side.)

MONTREAL, June 15, 1883.

Before DORION, C. J.

REGINA V. SELLARS.

Libel—Proof of publication.

Evidence that the defendant in a criminal prosecution is, at the time of the trial, editor and proprietor of the journal in which the libel was printed, is insufficient. The defendant should be proved to have been proprietor or publisher at the date of publication.

It being objected, at the close of the case for the prosecution, that there was no proof that the defendant was proprietor or publisher of the journal at the date of publication, the Court allowed the witness on this point to be recalled, in order to verify his evidence. After deliberation the presiding Chief Justice charged the jury as follows:—

Gentlemen,—You have seen the libel and heard it read. Now, I must tell you that it is essentially necessary that the prosecution should have proved that the defendant was, on the 22nd of June, 1882, the date of the publication of the libel, either the proprietor of the paper or the publisher of the article complained of. It has been in some way proved that at one time a Robert Sellars gave an affirmation as required by law, and registered it in the Clerk of Sessions' office, declaring himself to be the proprietor of the paper in question, the *Canadian Gleaner*. But it has in no way been proved that the Robert Sellars who made that affirmation was the Robert Sellars who is now prosecuted in the present case. The affirmation was given a long time ago; and it was necessary for the prosecution to show that that was the Robert Sellars who is prosecuted in this case; or in the absence of such evidence it was necessary to show by other legal evidence that the Robert Sellars now prosecuted was the proprietor or publisher at the time of the publication of the libel on the twenty-second of June, 1882. It has been proved by Mr. C. P. Davidson that Robert Sellars, the defendant, is the proprietor of the paper at this date; but there is no proof that he was proprietor or publisher of the paper when the libel imputed to him was published a year ago. Now, this is not a question for a jury. It is a question of law for the judge to decide whether there is evidence or no evidence. When there is evidence to go to the jury then they have to decide whether it is sufficient or not, but it is a matter for the Court to decide whether there is evidence or not. It is my duty, in this case, to say that there is no evidence to go to the jury of the defendant being

the proprietor or publisher at the date of the libel, and it will be your duty, gentlemen, to acquit the defendant, for that reason. You do not go into the merits of the case. There is no other point except the one I am putting before you for you to express your opinion upon; but you must decide by the direction of the Court upon the law question, that there is no evidence, and acquit the defendant in this case accordingly, of the accusation brought against him.

THE LICENSE BILL.

The following is a *resumé* of the Act respecting the sale of intoxicating liquors, as finally passed. The preamble of the bill reads as follows:—

"Whereas, it is desirable to regulate the traffic in the sale of intoxicating liquors, and it is expedient that the law respecting the same should be uniform throughout the Dominion, and that provision should be made in regard thereto for the better preservation of peace and order; therefore her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts, etc." Upon these broad and comprehensive grounds the Government adopted the bill.

1. The first clause states that the Act may be cited as the Liquor License Act, 1883.

2. The second clause is the ordinary interpretation clause. According to it, "Board" means the Board of License Commissioners; "District" means a License District; "Electors" means those entitled to vote at an election for a member of the House of Commons; "Inspector" means an inspector of licensed premises, and includes every person having the authority of such inspector; "Justice," or "Justices," means justice of the peace; "Hotel License" means a license authorizing the holder thereof to sell and dispose, under the provisions of this Act, of any liquor in quantities not exceeding one quart, which may be drunk on the premises; "licensee" means a person holding a license under this Act; "licensed premises" means the premises in respect of which a license under this Act has been granted and is in force, and shall be construed to mean and extend to every room, closet, cellar, yard, stable, outhouse, shed, or any other place whatsoever of, belonging, or in any manner appertaining to such house or place; "liquors," or "liquor," shall be construed to mean and comprehend all spirituous and malt liquors, and all combinations of liquors and drinks, and drinkable liquors which are intoxicating; "magistrate" means the judge of the sessions of the peace, police, stipendiary, or sitting magistrate, recorder, justice or justices of the peace, or commissioner of a parish court who may have jurisdiction to entertain a complaint in respect of a contraven-