

objected to the jurisdiction of the Recorder's Court to hear the complaint, but without success, and was condemned to a fine of \$5 and costs. He then gave notice to the Attorney General of the province of Quebec, and presented his petition based on, amongst other grounds, the following: (a) the complaint does not mention any offence and is therefore null; (b) the bylaws under which the said complaint was laid are illegal and *ultra vires*; (c) the Federal Authorities alone have the right to legislate on the matter upon which the petitioner was convicted; and they have legislated in the matter, and any prosecution should have been taken in virtue of the federal laws; (d) the said bylaws are unjust, arbitrary and offensive; (e) the offence charged against the petitioner is an indictable offence over which the Recorder was without jurisdiction.

The defendant answered by a general denegation.

The Superior Court maintained the contestation and dismissed the petition for the following reasons:

"Considering that the complaint made against the petitioner was, that he had, in the City of Montreal, in his possession, with intention to sell within the City, milk below the standard, viz: not containing 3 p. c., butter fat; 12 p. c., total solids and a specific gravity of from 10.29 to 10.33 at a temperature of 60° F.;

"Considering that in 1851, the Legislative Council, and the Legislative Assembly, of the then province of Canada, passed an Act to amend and consolidate the provisions of the Ordinance to incorporate the City and Town of Montreal, and by said statute authorized and empowered the Council of the said City of Montreal to enact bylaws for the good rule, peace, welfare, improvement cleanliness, health, internal economy and local government of the said