CIRCUIT COURT.

AYLMER (District of Ottawa), Sept. 16, 1887.
Before WURTELE, J.

LAPIERRE v. BRIÈRE.

Sale of Intoxicating Liquors to be drunk on the spot—Traveller—C.C. 1481.

HELD:—*That when a traveller, lodging in a hotel, has spent the evening drinking in the bar-room with a number of the inhabitants of the locality, and has ordered intoxicating liquors, in his turn as his treats, the exception contained in article* 1481 *of the Civil Code does not apply to such traveller, and that the tavern-keeper has no action against him for the price of such liquors.*

PER CURIAM.—The plaintiff, a tavern-keeper of the village of Buckingham, has sued the defendant, a farmer of the township of McGill, on an account including a number of items, for five glasses of liquor each, on the 17th January and 31st March of last year.

The defendant has pleaded that the plaintiff has no action for the recovery of the price of this liquor, which was drunk on the premises; and the plaintiff has answered that it was sold to the defendant and drunk by him and his friends, while they were travellers, lodging in his hotel.

The plaintiff quoted article 1481 of the Civil Code, which, while depriving hotel-keepers of the right of action for the recovery of the price of intoxicating liquors sold to be drunk on the spot, makes an exception with respect to liquors sold to and used by travellers.

The proof showed, however, that on the two occasions in question the defendant had spent the evening talking and drinking with a number of the inhabitants of the village, each paying his treats in turn.

The general rule laid down in the customs of Paris and Orleans was that tavern-keepers had no action for liquors sold to be consumed in their houses; but jurisprudence restricted the denial of action to the case of liquors sold to the inhabitants of the locality, and allowed the action in the case of travellers. The article of our code is founded upon the articles above mentioned of these two customs, but the modification introduced by jurisprudence has been incorporated in the text.

The end had in view by the customs was the repression of carousing and of debauchery, while jurisprudence protected the tavern-keeper who merely provided travellers with liquors for their reasonable wants.

I must apply these reasons in interpreting the article of our code. When the tavern-keeper gives liquors to a traveller for his ordinary use and reasonable wants, the exception gives him an action, and, consequently, a lien on the traveller's baggage for the price of such refreshments; but when the tavern-keeper aids and abets the traveller in indulging in base appetites and in committing excesses, he cannot claim the benefit of the exception. When, as in the present case, the traveller joins a number of the inhabitants of the place in a carousal and contributes for his share of the expense, he ceases to have an exceptional character, and no distinction can be made between him and his companions as to the tavern-keeper's rights for the liquors supplied to them.

I am of opinion that, under the circumstances, the plaintiff has no action for the price of these treats, and I strike the items from the account.

Judgment for the balance.

F. A. Baudry, for plaintiff.
Thos. P. Foran, for defendant.

CIRCUIT COURT.

HULL (County of Ottawa), Oct. 17, 1887.
Before WURTELE, J.

FOX v. BEATON, AND WOODBURN, intervener.

Circuit Court—Jurisdiction of—Action for seaman's wages.

HELD:—*That the Circuit Court has no jurisdiction, except in certain exceptional cases, for the recovery of wages due to seamen employed on steamboats of more than twenty tons, or on other vessels of more than fifty tons, registered in Canada and navigating its inland waters.*

PER CURIAM.—The plaintiff alleges that at the city of Ottawa, on the 25th June last, he was engaged as engineer on board of the