

THE LIQUOR LICENSE ACT, 1883.

castle's Statutory Law, p. 29 sq.) And an example is cited which bears some analogy to the case under consideration. A certain by-law authorized the Poulterers' Company in London to fine "all poulterers in London or within seven miles round," who refused to be admitted into their company. The courts held that inasmuch as no poulterer could legally belong to the company who was not also a freeman of the city, the by-law was to be construed as limited to those poulterers who were also freemen: (*Poulterers' Company v. Phillips*, 6 Bing. N. C. 314). If the courts had held otherwise the unhappy poulterer who was not also a freeman would have been in almost as dreary a plight as that in which our "second commissioner" is alleged to be. He could not belong to the company because he was not a freeman, while on the other hand he would be fined for not belonging to the company because he was a poulterer.

Again, no doubt, a Dominion Act cannot in any way be supposed to repeal, or be intended to repeal, a Provincial Act, which is not *ultra vires*; but at the same time the principles on which the courts deal with supposed inconsistencies and repugnancies between two statutes *in eadem materia*, cannot fail to apply to the case of Dominion enactments and Provincial enactments which are supposed to be inconsistent and repugnant. Now it is laid down that if two statutes are inconsistent the greatest care will be taken and their provisions will be most strictly scrutinized before the Court comes to the conclusion that the earliest of the two is repealed by implication: (*Escot v. Martin*, 4 Moo. P. C. at p. 130; *Charlton v. Tonge*, L. R. 7 C. P. at p. 183; *Wilberforce on Statute Law*, p. 318). Not only is repeal by implication not favoured, but any construction involving it is to be rejected in favour of any other which the language will rationally bear: (*Maxwell on Statutes*, p. 134.) Again it is a general presumption that the legislature does not intend to exceed its jurisdiction: (*ib.* p. 118.) Lastly, when the objects of two ap-

parently repugnant Acts are different, no repeal takes place: (*ib.* p. 153).

Let us then, bearing these rules and principles in view, again consider the two enactments under discussion. We say without hesitation no court would hold them to be repugnant. The Ontario Act says:—"No person who is a license commissioner *shall be qualified* to be a member of the council of any municipal corporation." The policy of the enactment is obvious. A license commissioner running for municipal office would have in his hand a great and potent weapon of corruption, no less a potent weapon than alcohol. Beer and the Bible are said to have carried the late Lord Beaconsfield into power, and whiskey without the Bible cannot but have its weight. The McCarthy Act in no way militates against this Provincial legislation. It merely provides that when once a man is established in office as warden of a county, or mayor of a city, he shall be *ex officio* one of the Board of license commissioners. Having, under the protection of the Ontario Act, been elected by the *sober* sense of the municipality to the chief office in its gift, who could be more fitted to legislate in the interests of sobriety and temperance? At all events, the policy which would debar the holder of municipal office from being a license commissioner, would be entirely distinct from that which debars a license commissioner from being a candidate for municipal office. The object of the one enactment is distinct from that of the other. The Ontario enactment aims at preventing a man who holds the position of license commissioner from standing for municipal office. The Dominion Act says that a man who *has attained* a certain municipal office shall be a license commissioner. The objects of the two Acts being different, and the one not interfering with the effectuation of the object of the other, they cannot be considered as inconsistent or repugnant.