

limited by a variation of the condition under sec. 4 of the above Act, though such period might be shortened.

Per STRONG, J., that inserting a clause in a policy extending the time for payment of loss to sixty days, in the form prescribed by said sec. 4, is not a variation by agreement of the parties within the meaning of the statutory condition.

Robinson, Q.C., and Millar for the appellants.

McCarthy, Q.C., for the respondents.

MOLSON *et al.* v. LAMBE *es qual.*

Prohibition—Licensed brewers—Quebec License Act—41 Vict. c. 3—Constitutionality of.

R., a drayman in the employ of J. R. M. & Bros., duly licensed brewers under 43 Vict. c. 19 (Q.), was charged before the Court of Special Sessions of the Peace at Montreal with having sold beer outside of the business premises of J. R. M. & Bros., but within the revenue district of Montreal, in contravention to the Quebec License Act, 41 Vict. c. 3. On a writ of prohibition issued by the Superior Court, at the instance of appellants, claiming *inter alia* that, being licensed brewers under the Dominion Statute, they had the right of selling beer by and through their employees and draymen without a Provincial license, and that the Quebec License Law of 1873 and its amendments were unconstitutional, and if constitutional did not authorize the complaint and prosecution against R.

Held, reversing the first holding of the court below, that the Court of Special Sessions was the proper tribunal to take cognizance of the alleged offence of R., and therefore a writ of prohibition did not lie in the present case (TASCHEREAU and GWYNNE, JJ., dissenting).

2. Affirming the judgment of the court below, that the Quebec License Act of 1878, 41 Vict. c. 3 (Q.), is constitutional; GWYNNE, J., dissenting on the ground that the Quebec License Act, 1878, imposed no tax on brewers, and therefore the prohibition should be ordered to be issued absolutely.

Appeal allowed with costs.

Kerr, Q.C., for appellants.

Geoffrion, Q.C., for respondent.

QUEBEC STREET RAILWAY COMPANY v. CORPORATION OF THE CITY OF QUEBEC.

Street Railway—By-law—Construction of—Notice—Six months.

The Quebec Street Railway Company were authorized, under a by-law passed by the Corporation of the City of Quebec, and an agreement executed in pursuance thereof, to construct and operate in certain streets in the city a street railway for a period of forty years, but it was also provided that "at the expiration of twenty years (from the 9th of February, 1865) the corporation may, after a notice of six months to the said company, to be given within the twelve months immediately preceding the expiration of the said twenty years, assume the ownership of said railway upon payment," etc., etc. On the 9th of January, 1884, the Corporation of the City of Quebec gave a notice to the company of their intention to take possession, but afterwards gave a second notice, on the 21st of November, 1884, whereby the corporation informed the company that the previous notice was annulled, and that after the 9th of February, 1885, at the expiration of the time and in the manner prescribed by the by-law, they would assume possession, and subsequently, on the 21st of May, they tendered \$23,806.30 for the property.

In an action brought to declare the tender valid, and for a decree declaring the corporation entitled to take possession,

Held, reversing the judgment of the court below, FOURNIER, J., dissenting, that the company were entitled to a full six months' notice prior to the 9th of February, 1885, to be given within the twelve months preceding the 9th of February, 1885, and therefore the notice relied on was defective.

Appeal allowed with costs.

Irvine, Q.C., and Stuart, for appellants.

P. Pelletier, Q.C., for respondents.

KLOCK v. CHAMBERLAIN *et al.*

Sale by wife to secure debts due by her husband—Simulated deeds—Art. 1301 C. C. (Q.)

Where the sale of real estate by the wife, duly separated as to property from her husband, to her husband's creditor is shown to have been intended to operate as a security