

township of Compton in this cause prosecute the defendant for selling liquor without a license. Defendant has pleaded not guilty, but admits the sale of the liquor under a mining inspector's license, which is produced. The complainant replies that this license is illegal and null as no such license could be granted within the municipality, because a prohibitory by-law, passed in March, 1885, is claimed to be in force therein.

Defendant claims that his license should prevail over the by-law.

No witnesses were examined in this cause, and it rests merely on documents filed and admissions of parties.

The question submitted is whether the by-law should hold or the license.

The "Mining Law," embodied in the Revised Statutes of Quebec, Art. 1477, says, "The sale of intoxicating liquor within a radius of seven miles of any mine in operation is prohibited until a license to that effect has been obtained from the Inspector of the Mining Division, in conformity with sec. 12 of chap. 5, of title four of these Revised Statutes, under the penalties set forth in the 893rd and following articles." Section 12 which is mentioned in this article, is the Quebec License Act.

Art. 829 of the License Act says:—"It is forbidden to keep, amongst other things, a railway buffet or tavern at the mines, etc., without having previously obtained from the Government, in the form and manner hereinafter mentioned, a license, etc." And Art. 830 proceeds to say: "The officer appointed under any Mining Act in force, in charge of any mining district, shall alone have the right to issue licenses for the sale of intoxicating liquors within a radius of seven miles from any mine that is being worked."

At the argument of the case, it was admitted that Compton is included in a Mining Division, and within a radius of seven miles from a mine in operation.

It is curious to refer back to old Statutes in order to see where this law is first found. We have to look, to do this, to 27 and 28 Vic., chap. 9, sec. 28, viz., in 1864, which is an act called the Gold Mining Act. This statute prescribes that "no person shall sell liquors

"within one mile of a gold mine without a monthly license for an inn, issued by the officer of the mining division, under a penalty of one hundred dollars, etc." This same statute, 27 and 28 Vic., contains also the original Temperance Act (commonly called Dunkin Act) chap. 18. It is this law which gives authority to Municipal Corporations to pass prohibitory by-laws, and punishes offences against them by a fine of \$50. Then these two acts were enacted in the same year and form part of the same statute book. Is it not evident that, in the intention of the legislature, the clause of the "Gold Mining Act," was intended to be more restrictive with regard to the sale of intoxicating liquors than the ordinary law, and took away from the Municipal Councils the right to grant licenses, to place that power in the hands of a Government officer in order to have a better control of the sale of ardent spirits? If that was not the object of the law, why only grant *monthly licenses*, and impose for infraction of the law fines of \$100 instead of \$50, as under the Dunkin Act? This appears also plainer by reading together sections 28 and 29 of the "Gold Mining Act." This last section in particular says that this sort of license is only granted to those who can show the mining officer that they already possess an ordinary license granted by the Collector of Inland Revenue then in force. This Gold Mining Act, as originally enacted, has undergone a great many changes, but the original intention to put more than ordinary restrictions on the sale of liquors has, I believe, been generally preserved. It is clear to me that these statutes (The Gold Mining Act and the Dunkin Act), having been enacted together by the old Legislature of the Province of Canada before confederation, namely in 1864, and the last act having been embodied in the Municipal Code and in our Revised Statutes at Art. 1095, are not inconsistent with each other, but, on the contrary, are intended to stand together and help each other in imposing greater restraint on the sale of liquors. The first amendment to those two sections, 28 and 29 of the Gold Mining Act, was made in 1868 (31 Vic., chap. 21, sec. 7) by the Province of Quebec. This would be sufficient to show that the Quebec Legislature could not