

THE NATIONAL INSURANCE CO. V. CHEVRIER.

Company—Subscription of Stock—Parole Evidence of Agent's statement.

JOHNSON, J. Action for three calls of 10 per cent each on the \$1,000 of stock subscribed by the defendant. The plea was that the defendant's signature had been got by improper representations of the agent of the Company, a Mr. McDonald, and that in point of fact he was not held by his subscription. The evidence shows that although Chevrier may have subscribed incautiously and without sufficient enquiry, he did so deliberately and freely in the hope of profit, and it is no defence, of course, to say that the stock has turned out temporarily unprofitable. Now that is the proper effect of the evidence in this cause, for the verbal testimony of what McDonald said at the time of subscription cannot be received against the written consent of the party; therefore there must be judgment for the amount demanded, with costs.

Lunn & Co. for plaintiffs.

O. Augé for defendant.

JOHNSON, J.

DAME E. RICHLER, for certiorari, and JUDAH, Acting Recorder.

Quebec License Act, 1878—Revocation of certificate.

Section 92 of the Quebec License law of 1878, prohibiting the sale of liquor between 11 p. m. and 5 a. m., applies to the city of Montreal.

The Recorder has power, under section 102 of the Act, to revoke the certificate of a tavern-keeper.

JOHNSON, J. The writ in this case has brought up a conviction by the acting Recorder under the Quebec License law of 1878. The petitioner was convicted for having between 11 o'clock on the Saturday night of the 15th of June and 5 o'clock of the following morning, at the city of Montreal, sold two glasses of beer, she being at the time keeper of an inn situate in Craig street, and was condemned to pay a fine of fifty dollars and costs, or in default to go to jail for two months, and the certificate for her license was also revoked. The questions raised were whether the 92nd section applied to Montreal, and whether the Recorder's Court could revoke the certificate. The Court is against the petitioner on both points. The argument was that the 92nd section referred only to offences committed at the gold mines; but it clearly refers

to two distinct offences. 1st, the offence of selling at this particular time in any inn; and then the offence of selling at those times at any restaurant or tavern at the gold mines. The Act had previously made provision for what were to be considered inns (see sec. 1 D.), and had also provided for what was a tavern at the gold mines, (same sec. 1). It had further provided the terms on which licenses in all cases were to be obtained, and the 92nd section contains a prohibition in both cases to sell liquors between these particular hours. Section 94 gives the penalty, which has not been exceeded in the present case. It was said that there was a discrepancy between the English and French versions of section 94—the former saying that the penalty was not to be less than ten nor more than fifty dollars; and the latter having substituted fifteen for fifty. Such was, no doubt, the case in the Act of the first session of the present year; but it was set right at the next session (see 41-42 Vic., chap. iv., sec. 4), and this is in its nature declaratory and retroactive. As to the power of the Recorder's Court to revoke the certificate, section 102 gives that power to "the tribunal pronouncing the sentence, or to the license commissioners." I am, therefore, of opinion that the conviction must stand, and the petition be dismissed with costs.

Doutre & Co. for the petitioner.

R. Roy, Q. C., for the prosecution.

Montreal, Aug. 6, 1878.

RAINVILLE, J.

LEDUC V. LABERGE, JR.

Municipal Election—Qualification of Alderman—Real Estate owned by a firm.

Held, that the qualification of an alderman in the city of Montreal under 37 Vict. (Que.) c. 51, cannot be based on real estate owned by a commercial firm of which the alderman is a partner.

The election of Augustin Laberge, Jr., as Alderman for the St. Louis Ward in the city of Montreal, was contested on the ground that he was not properly qualified. The Quebec Statute, 37 Vict. c. 51, s. 17, enacts that an alderman must own real estate of the value of \$2000, after deduction of his just debts. The petitioner proved that the property on which the defendant qualified was owned by the firm