

demption money, which in fact is the amount of the taxes in arrear, plus the charges of sale and ten per cent., to which the purchaser is entitled as a recompense for having advanced his money. The spirit of the 113th section is satisfied by the payment of the tax, on the sub-division of which satisfactory proof has been given; the spirit of both sections is fulfilled by the collection of the tax on the sub-division, and the redemption by the owner on the terms imposed by the 148th section.

And the principle of section 113 is remedial. A man purchases an acre of an unoccupied 200 acre lot. At the time of his purchase the tax for some preceding year has been suffered to fall into arrear. He erects a dwelling on his purchase, and then finds that the tax for that year is due; and but for the 113th section he must pay the tax on the other 199 acres, or his one acre may be sold. If it has been sold, and the 113th section does not help him, to save his acre he must pay the taxes on the whole 200, with the costs and the additional ten per cent. And if the 148th section were strictly and literally construed, he would have no legal right to redeem the 199 acres, because he was not the owner of them, but only of the one acre.

We think it more in accordance with the spirit and intention of the act to hold that the benefit conferred on owners of land, under the circumstances stated in the 113th section, should be treated as extended to owners similarly circumstanced, as owning a sub-division of a lot, and to enable them to redeem it on adducing satisfactory proof to the Treasurer of the sub-division.

In our opinion, therefore, the payment received by the Treasurer of the proportion of the arrears of taxes for which lot 13 was sold, which would be and in fact were due in respect to the east half only, was an effectual redemption of that half lot. And we prefer to rest our conclusion in favour of the defendants on this ground to entering upon the (to my apprehension) more doubtful question on the payment made by mistake by Mr. Prince on the west half of the lot, a payment which at first glance can hardly be said to have redeemed the lot, without holding that the form not the substance is to be considered by the Court. The municipal council as it seems, have treated the payment by mistake as not incapable of correction, by making a transfer of it to the proper lot.

However, I do not desire to bind myself to any opinion as to the legal effect of the payment by Mr. Prince. On a merely superficial view it seems open to objection, but a careful consideration might lead to a conviction that it should prevail to prevent forfeiture.

We think the rule should be discharged.

*Rule discharged.*

#### THE QUEEN V. FAULKNER.

*Sale of Liquors—License—29 & 30 vic. Secs. 249, 254.*

Under the Municipal Institutions Act of 1866, secs. 249, 254, a person holding a shop license for the sale of liquors, is punishable, under sec. 254, for selling liquor at his shop in quantities less than a quart.

Robert A. Harrison obtained a rule nisi, calling upon Alexander McNabb, Esq., Police Magistrate of the City of Toronto, and George Albert Mason, the Informant, to shew cause why the conviction by the Police Magistrate of the de-

fendant Faulkner, a shopkeeper licensed to sell spirituous liquors at his shop in the said city, for having sold at his shop whiskey in less quantities than a quart, namely, in the quantity of a pint, should not be quashed for irregularity, on the following grounds: 1st. That the defendant was not by law restricted to sales of spirituous liquors in quantities less than a quart. 2nd. That if so restricted, he was not liable to summary conviction for any such sales. 3rd. That so long as in fact licensed, he could not, in the absence of express statutory provision or by-law of the Police Commissioners, be summarily convicted of selling spirituous liquors without license, in excess of or contrary to the license. 4th. That there is no such statutory provision, and no such by-law. 5th. That the latter part of sec. 254 of the new municipal act applies only to the case of persons making sales of spirituous liquors without license, and sec. 255 of the same act, which applies to shopkeepers, creates no offence such as that charged against the defendant.

The rule was drawn up on reading the *certiorari* and the return thereto, the conviction, and the papers annexed. The conviction was as follows:

PROVINCE OF CANADA, } Be it remembered that  
CITY OF TORONTO } on the twenty-second day  
To wit: } of May, in the year of  
our Lord one thousand eight hundred and sixty-seven, at the said City of Toronto, M. B. Faulkner, of the said city, shopkeeper, is convicted before me, Alexander McNabb, Esquire, Police Magistrate for the said City of Toronto, for that he, the said M. B. Faulkner, on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and sixty-seven, at the said City of Toronto, while holding a shop license for the retail of spirituous liquors duly granted to him on the ninth day of April, in the year of our Lord one thousand eight hundred and sixty-seven, and which is in the words and figures following, namely:

Class 3rd. Amount \$40.

No. 88.

SHOP LICENSE.

This is to certify that a License was this day granted to M. B. Faulkner, of No. 342 Yonge Street, in the Ward of St. John, in the City of Toronto, Shopkeeper, authorizing him, the said M. B. Faulkner, to sell, by retail, spirituous, fermented, or manufactured liquors, in his shop at No. 342 Yonge Street, as aforesaid; but not to allow any such liquors to be consumed within his shop, or within the building or premises of which such shop is part, either by the purchaser thereof or by any other person not usually resident within such building. Provided, nevertheless, that the said M. B. Faulkner shall observe and keep all such laws, by-laws, rules, and regulations as are now or may hereafter be lawfully in force in the City of Toronto, in reference to shop licenses, and to shopkeepers, and in respect to the keeping or selling of any such liquors as aforesaid.

As witness my hand and seal, at Toronto, this 9th day of April, A. D. 1867.

OGLE R. GOWAN,  
*Inspector of Licenses.*

Did sell at his shop in the City of Toronto spirituous liquors, to wit, whiskey, in less quantities than a quart, namely, in the quantity of a