

licensed for that purpose, should sell in the city of Montreal, in any quantity whatever, any intoxicating liquor, is liable for each offence to a fine of ninety-five dollars, and that the said Andrew Ryan on the 6th day of June 1882, in the city of Montreal, sold intoxicating liquor as alleged in the complaint laid before the Police Magistrate. That the said Andrew Ryan admitted the sale in question, before the said Police Magistrate. That the said Quebec License law of 1878 and its amendments are constitutional. That it was in due form passed by the Legislature of the Province of Quebec in conformity with the British North America Act of 1867. That by force of the 92nd section of the said British North America Act, the Legislature of the Province of Quebec has the right to pass the License law in question. That assuming the said John H. R. Molson and Brothers, brewers, to have the right, in virtue of the license which they have to sell, without any other license, beer of their own manufacture, still, the said Andrew Ryan had no right to hawk it about through the City of Montreal and to sell it outside of the premises of the said brewers, without being provided with the license required by the Quebec license law. That moreover the said Molson and Brothers themselves, have no right, in virtue of their license, to sell their beer outside of their premises without a license of the Province of Quebec. That in virtue of the 196th section of the said Quebec License Law of 1878, every action or prosecution in which the sum demanded does not exceed \$100, may be tried before the Police Magistrate, and that the said Mathias C. Desnoyers was such Police Magistrate. That under these circumstances the prosecution instituted against the said Andrew Ryan, was legally instituted and came under the jurisdiction of the said Police Magistrate, who had in consequence the right to hear and decide it.

To this intervention, the petitioners pleaded in answer "that the so-called License Law of the Province of Quebec of 1878 referred to in the said intervention, as well as its amendments, is unconstitutional, inasmuch as the same was passed *ultra vires* of the Province of Quebec, and that

"each, all and every of the said clauses referred to in the intervention and *moyens d'intervention*, are unconstitutional and *ultra vires* of the said Province of Quebec. And the said petitioners aver, as they have already in their said petition averred, that even supposing that the said license law and its amendments are valid and constitutional, yet the said petitioners, Molson & Brothers, being duly licensed brewers at the said city of Montreal, and the said Petitioner, Andrew Ryan, being in their employ and their agent, were, under their said license under the provisions of the Dominion Acts of Parliament, justified and entitled to sell the beer according to the usage and custom of trade in the said Province." And the petitioners, admitting the prosecution, defence, and admissions set up in the said intervention, denied the liability of the said Andrew Ryan, to the penalty claimed from him, and also denied the jurisdiction of the said Court of Special Sessions and of the said Police Magistrate, to take jurisdiction of the said cause.

To this the intervenant replied, insisting that all the allegations of his said intervention were well founded in law.

The parties to the said cause in prohibition were thus at issue.

Now the admissions referred to in the said intervention as having been made in the said cause, in the said Inferior Court before the said Police Magistrate, are precisely the same as have also been made in the cause in prohibition for the determination of the issues joined between the parties to that proceeding, and are as follows:—

1st. That the firm of John H. R. Molson and Brothers are brewers in Montreal and have carried on their business for a number of years past, and that they were duly licensed brewers under a license issued by the Dominion Government under and by virtue of the Act 43rd Victoria, ch. 19, entitled "The Inland Revenue Act of 1880."

2nd. That the said Andrew Ryan was at the time of the offence alleged, in the information, to have been committed by him, in the employ of the said firm of John H. R. Molson & Brothers as drayman, and that he was paid his wages as such drayman by a