

pelled to take out, and consequently cannot be punished for not taking out one of the licenses upon which a duty or tax is imposed by the Acts. In order to raise a revenue by taxation of any kind, the thing to be taxed must be expressly stated in the Act imposing the tax. But none of the licenses named in the Acts relate to the business of a brewer. His business is to manufacture beer and to sell the beer manufactured by him; the Acts impose no tax upon his business. He cannot, therefore, be compelled to contribute to the Provincial revenue by taking out, nor can he be punished for not taking out a license authorising him to keep an inn, a restaurant or railway buffet—a steamboat bar or a retail or wholesale liquor shop, none of which, nor all of them together, if taken out, would enable him to carry on the business of a brewer, or authorise him to dispose of the article manufactured by him. The Messrs. Molson & Brothers, although they should be possessed of every one of the above named licenses, would be as liable for the act which is the subject of prosecution in the Inferior Court, now under consideration, as they are now, not having any of such licenses. Brewers, therefore, are not required, by the Acts in question, in order to carry on their business, to take out any of the licenses which, for the purpose of raising a revenue, are subjected to a fee or tax. The Intervenant, in his pleading in intervention, contends that, admitting that the said Molson Brothers are entitled, in virtue of the license from the Dominion Government, to sell the beer of their manufacture without any other license, still Andrew Ryan had no right to hawk or peddle the beer through the City of Montreal, and to sell it outside of the premises of the said brewers, without being supplied with the license required by the Quebec License Act. And that, moreover, the Messrs. Molson & Brothers themselves, had no right to sell their beer outside of their premises without a license of the Province of Quebec; but as brewers are not, nor is their business, taxed by the Act in question, and they are not required by any of the Acts to take out a license from the Provincial Government to enable them to carry on their trade, and as none of the licenses which are by the Acts

subjected to a tax or duty, would give them any greater authority to sell their beer on the premises where it is manufactured, any more than elsewhere, they must have the same right to sell and deliver the beer manufactured by them at the residences or places of business of their customers, whether they be licensed inn or restaurant, or steamboat bar-keepers, or others, equally as at the premises where the beer is manufactured, unless the provision in the Acts as to pedlers' license applies, which is the only license which can be referred to in the pleading in intervention; but apart from the absurdity of brewers, by delivering their beer to customers at their residences or places of business, being deemed to be pedlers, the Act expressly provides that no person is obliged to take out a license to peddle and sell goods, wares, &c., of their own manufacture, excepting drugs and medicines and patent remedies, whether peddled and sold by himself or his agents or servants.

Mr. Geoffrion, however, contended that although none of the licenses named in the Act authorised to be done the act which is the subject of the prosecution instituted against Ryan, nevertheless the penalty sought to be recovered is exigible: but the object of imposing a penalty is to prevent the revenue being defrauded by a party doing without a license that for doing which the Act has required a license to be taken out, upon which for the purposes of revenue, a tax is imposed. Accordingly the Provincial Statute 46th Vic. ch. 5, already referred to, and which was passed, as stated in the preamble, because doubts had arisen as to the constitutionality of certain provisions contained in the Quebec License Act of 1878, and the amendments thereto, and that it was expedient to make such provision as would ensure the collection of the revenue derivable from the duties imposed and payable for the different licenses specified in the above mentioned Act as amended; and which, to remove the above doubts, declared that the duties payable for licenses imposed by the Quebec License Act of 1878, as amended by the Act of 1880, were imposed in order to the raising of a revenue for the purposes of the Province, enacted that: "Any person neglecting or refusing to pay the license