length to the points that were raised before our magistrates at Montreal but I will briefly indicate that they raised a defence in the first place that these men to whom liquor had been sold—the facts were admitted—were not Indians under section two of the Indian Act which defines what an Indian is, because they were in reality Halfbreeds. Under section two of the Indian Act it is provided that the expression 'Indian' means

Any male person of Indian blood reputed to belong to a particular band.

It was contended that although they had perhaps Indian blood they were not full-blooded Indians and consequently did not come under this description of subsection four of the interpretation clause of the Indian Act, they were not of Indian blood because they were not full-blooded.

Mr. LEMIEUX. Is that the case that came before Justice Desnoyers ?

Mr. MONK. There were several. There was one before Justice Desnoyers and another before Judge Choquette, another magistrate, and I think a uniform course was adopted by the magistrates. These men were convicted. The judges in Montreal held that the words 'a man of Indian blood' comprised a Halfbreed, and they adjudged consequently that all these Halfbreeds, whatever there might be of a distinctive character in their appearance, came under this description of subsection two and were to be considered as full-blooded Indians. There was another defence, which was also set aside, and that defence was that the parties who had sold liquor to these Indians were acting in good faith, did not know that the persons to whom they were selling were in reality, in the eyes of the law, full-blooded Indians, Indians reputed to belong to a particular band and consequently were to be considered as Indians. It was decided by the judges in Montreal that it was not necessary to establish a guilty intent in the seller. However innocent they might be, however in good faith, although it was established that they did not know these men were Indians, still the violation of the law was there and that was sufficient and it was not necessary to establish a guilty intent. The cases were argued at considerable length and there were several of them.

Subsequently, a few months ago, there were several other prosecutions. The government, I think, sent some inspectors there and three suits were instituted against a saloon keeper there who had sold, not himself, I believe, but through his barkeeper, three glasses of beer, to three Indians. The same defences were raised in those several cases, there were five or six—I appeared for three or four of the defendants—the same defences were raised that these Halfbreeds were not to be considered as Indians. The court, following the previous decision, overruled that contention. Circumstances of good faith were established. The courts held that good faith was not an element that could be taken into consideration. They had violated the law although they might have been deceived by the appearance of the men, and although they had taken precautions to avoid such an affair, having seen what had occurred a few months previously, they were guilty, technically, under section 94. The fine is $300, and if the government and particularly my right hon. friend the Premier (Sir Wilfrid Laurier), to whom this very unfortunate state of affairs was exposed, had not interfered and abandoned some of the prosecutions and simply allowed the law to take its course in one of the prosecutions, if I remember right, against each one of those charged, the parties would have incurred a very large loss of money, although in reality, they had never intended to violate law. Now, it is under these circumstances that it seems to me only just, in view of the particular circumstances, that the law should be made a little less stringent and that there should be a loop hole of escape for the magistrate where clearly there was no intention to violate the law.

I would like to call the attention of the House to a decision rendered in the Northwest Territories in 1900 by Mr. Justice Rouleau, in the case of Regina vs. Mellon. The court held in that case, following Regina vs. Howson.

That a half-breed who has 'taken treaty' is an Indian within the meaning of the Indian Act. A conviction of a person, licensed to sell liquor, for the sale of an intoxicant to such a half-breed was, however, quashed because the licensee did not know and had no means of knowing that the half-breed shared in Indian treaty payments. Mens rea must be shown.

The clause referred to in this decision is : 'If any licensed person supplies any liquor or refreshment whether by way of gift or sale to any constable on duty unless by authority of some superior officer of such constable, he shall be liable to a penalty not exceeding, for the first offence, ten pounds, and not exceeding for the second or any subsequent offence, twenty pounds.

In conclusion, I may add what Wright, J., said in the case just referred to : 'In the present case, if knowledge was unnecessary, no publican would be safe.'

This is a case reported at page 301 of the Territories Law Reports, Vol. V. That last remark of Wright, J., applies absolutely to the circumstances in which the people are situated at Lachine : no publican would be safe if knowledge were unnecessary, because it is absolutely impossible, and particularly so at the closing of the great workshops that exist at Lachine, when all the workmen to the number of nearly 2,000 pour out of those workshops, to tell a halfbreed who lives on the reserve from a white man. Under these circumstances, through some malicious informer or some person