

the said information was a servant and employee of the firm of J. H. R. Molson and Brothers, brewers of the said City of Montreal, who hold a license from the Dominion Government, under the provisions of an Act of the Parliament of Canada, and who have been in business as such brewers in Montreal for eighty years, that during the whole of the said term and up to the present time, it has always been the custom and usage of the trade of brewers to send around through the country their drays with beer, which beer was sold by their draymen during their trips to the said customers.

That on the occasion charged in the said information, the said Ryan was the agent, servant and drayman of the firm of J. H. R. Molson & Brothers.

That if he, the said Ryan, sold any beer whatsoever, he so sold it, as the agent and drayman of the said J. H. R. Molson & Brothers, and under and by virtue of their authority under the said license, and sold it according to the custom and usage of trade in the said Province ever since brewers were first established therein.

But the said John H. R. Molson and Brothers, being licensed under the provisions of the said Act of the Parliament of Canada, are not liable to be taxed either by or through their employees and draymen under the provisions of any Act passed by the Legislature of the Province of Quebec. And the said Ryan further alleged that he was not guilty in manner or form as set forth in the said information and summons, wherefore he prayed dismissal of the said prosecution. The petition then alleges that notwithstanding the said plea of the said Ryan to the jurisdiction of the said Police Magistrate and otherwise, the said Police Magistrate took jurisdiction over the said Ryan and proceeded with the said case, and that after certain admissions made in the said case (the nature of which will appear further on) the said case was taken in advisement.

The petition then insists that the Act under which the said prosecution was instituted namely the Quebec License law of 1878, and its amendments, are unconstitutional, illegal, null and void, and moreover that they do not apply to, and that the said Court of

Special Sessions of the Peace have no jurisdiction to try the said Ryan, for the pretended offence so charged against him, and the petitioner's grounds for this contention are stated (among others, for it is not necessary to set them all out) to be:—

1st. That there is no Act of the Legislature of the Province of Quebec which authorises the said complaint and prosecution.

6th. Because the petitioner, Andrew Ryan, being in the employ and being the drayman of the other petitioners, the act of the petitioner Ryan in selling the said beer was the act of the said other petitioners, co-partners, who by their license from the Government of the Dominion of Canada were authorized and empowered to sell such intoxicating liquor.

7th. Because the petitioners, the said Messrs. Molson and Brothers, being licensed brewers, had the right of selling by and through their employees and draymen, without any further license whatsoever, under the provisions of the Quebec License Act of 1878, and

8th. Because the Legislature of the Province of Quebec have no right whatever to limit or interfere with the traffic of brewers, duly licensed by the government of Canada. Wherefore the Petitioners prayed remedy and that a writ of our Lady the Queen, of Prohibition to the said Court of Special Sessions of the Peace, sitting in the city of Montreal and to the said Mathias C. Desnoyers, Police Magistrate for the City of Montreal, holding the said Court, do issue to prohibit the said Court and the said Desnoyers from further proceedings upon the said summons and complaint.

Upon this Petition, the writ of prohibition issued as prayed, and in the form prescribed by the 1031st & 1023rd articles of the code of Civil Procedure, and having been duly served upon the Police Magistrate and the Court of Special Sessions of the Peace, the said William B. Lambe in his quality of Inspector of Licenses for the district of Montreal was permitted to intervene under the provisions of the articles of the code of Civil Procedure in that behalf 154 to 158 inclusive, and pleaded that by the 71st section of the Quebec License Act of 1878, whoever, without being