

XIV. SALARIES OF LICENSE INSPECTORS.

On a claim brought by the Board of License Commissioners appointed under the Liquor License Act 1883, for moneys paid out by them to license inspectors with the approval of the Department of Inland Revenue, but which were found to be afterwards in excess of the salaries which two years later were fixed by order in council under sec. 6 of the said Liquor License Act, 1883—*Held*, affirming the judgment of the Exchequer Court, that the crown could not be held liable for any sum in excess of the salary fixed and approved of by the Governor-General in Council. *Burroughs vs. The Queen*, Supreme Ct., 1891, 20 Can. S. C. R. 420.

XV. SALE OF LIQUORS TO MINORS, ETC. (1)

In a prosecution under the Act of the Quebec Legislature against selling liquor to minors it was held by the Police Magistrate before whom the prosecution was brought that the burden of proof was on the prosecution to show that the saloon-keeper knew that the boys in question were under age, and where the boys in question were so nearly of age that their appearance did not indicate whether they were under or over, the defendant was discharged. *Carson vs. Devault*, Police Court, 1889, 12 L. N. 20.

XVI. STATUTORY PROVISIONS.

1. Act of 1864.—The Quebec License Act 34 Vict., ch. 2, and Quebec Municipal Code did not repeal the Temperance Act of 1864. *Covey vs. Corporation of Brome*, C. Ct. 1877, 9 R. L. 289; 21 L. C. J. 182.

2. — The first ten sections of 27 and 28 Vict., cap. 18 (the Temperance Act of 1864) were not repealed by Art. 1086 of the Municipal Code. *Hart vs. Corporation du Compté du Missisquoi*, C. Ct. 1876, 3 Q. L. R. 170.

3. — *Held*, that the Temperance Act of 1864 was kept in force by the B. N. A. Act sec. 129, which enacted: "Except as otherwise provided by the Act, all laws in force in Canada, Nova Scotia or New Brunswick, at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick, respectively as if the Union had not been made." Further that the Parliament of

(1) See article in 5 *Themis* 104 on this subject.

Canada in passing the Temperance Act of 1878 (41 Vict., cap. 16), specially recognized the Validity of the Temperance Act of 1864. *Noel vs. Corp. of Co. of Richmond*, Q. B. 1881, 4 L. N. 124, & 1 *Dorion's Q. B. R.* 333.

4. Act of 1878.—The provisions of the Liquor License Act of 1878 (Quebec), are *intra vires* of the powers of the Legislature of the Province of Quebec. And the power of section 37 excepts the by-law made 7th April, 1877, from the provision of section 36, and the power which the Corporation of Three Rivers has to impose license fees on the sale of intoxicating liquors in virtue of 21 Vict., ch. 10; and 38 Vict., ch. 76, have not been repealed by the Liquor License Act, 1878. *Sulte vs. The Corporation of the City of Three Rivers*, Supreme Court 1885, 8 L. N. 28, 11 Can. S. C. R. 25.

5. Mining Act.—The Mining Act and the Temperance Act do not conflict. *Corp de Compton vs. Simoneau*, Mag. Ct. 1891, 21 R. L. 265.

XVII. VIOLATION OF LICENSE ACT.— (See also "LICENSE.")

Where a license to retail spirituous liquors was granted to a person who merely sold liquor as bar-keeper for another—*Held*, that there was not a violation of the License Act, and that the owner might oppose the seizure of his goods when taken in ejectment under a judgment against the license. *Citizens' Insurance Co. vs. Warner*, S. C. 1883, 6 L. N. 54.

XVIII. VOTING UNDER DUNKIN ACT.

In a vote of the ratepayers under the Dunkin Act, the failure to keep one of the polls open during the day of voting is a fatal irregularity. *Covey vs. Corporation of County of Brome*, Q. B. 1878, 1 L. N. 519.

XIX. WHAT IS AN INTOXICATING LIQUOR.

Cider.—Petitioner was convicted of selling liquor without license. It was pretended that the liquor sold was a mere imitation of cider free from any intoxicating principle. Cider is enumerated in the License Act among intoxicating liquors, and the preparation in question did, in fact, contain over two per cent. of alcohol. Conviction held good. *Noel Exp.* S. C. 1883, 6 L. N. 150.