

Province of Nova Scotia.

SUPREME COURT.

Graham, E. J., in Chambers.]

[July 4.

MONTREAL TRADING STAMP CO. v. CITY OF HALIFAX.

Trading stamps—B. N. A. Act—Ultra vires—Provincial legislature—Property and civil rights—Threats of criminal prosecution made by police officers.

Application for a restraining order to restrain defendants from sending their police officers to call on merchants and threaten them with prosecution for violation of c. 57 of the Acts of 1899—an act against the use of trading stamps, etc., and to prevent said defendants from so prosecuting on the grounds (1) That it is illegal and against public policy for police officers to visit merchants and so threaten them, and (2) that the act was ultra vires the Provincial Legislature as not coming within the head of "Property and Civil Rights" and was a criminal act.

Congdon and Mellish, for the applicant. Drysdale, Q.C., and W. B. MacCoy, contra.

GRAHAM, E. J., The Legislature of Nova Scotia by c. 57 of the acts of 1899 amended the charter of the City of Halifax. Section 2 of that act is to the following effect, "No person . . . shall give, sell or dispose of trading stamps, tickets or cards to any persons . . . doing business in the City of Halifax, nor shall such persons so doing business in the City . . . take or have in his possession any such trading stamps . . . nor shall any vendor give, sell or dispose of any such trading stamps . . . to any of his customers whereby such customer shall be entitled to receive for such trading stamp . . . any money, personal property. . . ."

The Trading Stamp Co. (so called) is prohibited from doing business in the city, etc. "Any person violating this section . . . shall be imprisoned in the city prison for nine months with hard labor."

The plaintiff has entered into a contract with several merchants in the city to supply them with trading stamps at 50 cents per hundred, and they must supply one to their customers on demand—a trading stamp for every ten cents worth of goods bought by the customer. When the customer has accumulated the book full of trading stamps, about 990, he is entitled to receive from the Trading Stamp Co. a premium in goods of sorts, that is to say triple plated silverware. The Stamp Co. prints and circulates a directory containing the names of the merchants. John F. Ryan, one of the merchants, makes an affidavit that two policemen notified him that if he did not cease giving out trading stamps or dealing with them he would be prosecuted under this act and he has ceased dealing in stamps, and