

some respects, as said by Willes, J., in the *Mayor of London v. Cox*, "they strongly resemble." Now the procedure in the cases of mandamus by code of civil procedure is, as stated in article 1023 as follows :

"The application is made by petition supported with affidavits setting forth the facts of the case, and presented to the Court or judge, who may thereupon order the writ to issue, and such writ is served in the same manner as any other writ of summons"—and article 1024 enacts that—"the proceedings subsequent to the service are had in accordance with the provisions contained in the first section of this chapter"—which provisions are, that the defendant may set up against the petition such preliminary exceptions, or exceptions to the form, as they deem advisable, and the plaintiff may demur to the pleas set up in defence, that the plaintiff is bound to appear on the day fixed in the writ, and if he fails to do so, the petitioner proceeds with his case by default. Within three days from the filing of the answer the petitioner must proceed to prove the allegations of the petition in the same manner as proof is made in ordinary cases, and after closing of his proof and within a further delay of two days, the defendant is bound to adduce his proof. As soon as the proof of the defendant is closed, the petitioner may be allowed to produce evidence in rebuttal, if there is occasion for it; if he does not, either of the parties may inscribe the cause upon the merits, giving the opposite party notice of at least one day before the day fixed.

In accordance with the practice so prevailing in the Province of Quebec, John Henry R. Molson, John Thomas Molson and Adam Skaife trading in partnership as brewers, under the name of John H. R. Molson & Brothers, who were not parties to the proceeding in the Inferior Court herein-after mentioned, and Andrew Ryan who was the sole party named in such proceedings, presented their petition to the Superior Court for the District of Montreal wherein, in short substance they allege that the said Messrs. Molson and Brothers were duly licensed by the Dominion Government, under and in pursuance of an Act of the Dominion Parlia-

ment, to carry on the trade and business of brewers in the Province of Quebec; that they carried on such their trade and business in the City of Montreal. That it always has been, and is the custom of the trade of brewers in the Province of Quebec, for brewers to send out their draymen for the purpose of delivering to their customers the beer manufactured by the said brewers. That the Petitioner, Andrew Ryan, is, and for some time has been the servant and drayman of the said Messrs. Molson and Brothers, employed by them according to the said custom of the trade of brewers to sell and deliver for and on their behalf to their customers the beer manufactured by them, the said Molson Brothers, in quantities not less than in dozen bottles containing not less than three half pints each, and in kegs holding not less than five gallons each. That on the 10th of June 1882, William Busby Lambe, of the City of Montreal, exhibited an information and complaint against the said Andrew Ryan, before Mathias C. Desnoyers, Police Magistrate of the said City of Montreal, and procured a summons to be signed by the said Police Magistrate addressed to the said Ryan, whereby he was commanded to appear before the said Police Magistrate at a session of the Court of Special Sessions of the Peace to be held in the Court House of the said City of Montreal on a day therein named to answer the said information and complaint of the said Lambe, "for that he, the said Ryan, not having any license for the sale of intoxicating liquors in any quantity whatever, had in the said city of Montreal on the 6th day of June, A. D., 1882, and upon divers occasions before and since sold intoxicating liquors contrary to the statute in such case made and provided, whereby and in virtue of the said statute, the said Andrew Ryan had become liable to payment of a fine of the sum of ninety-five dollars; which sum that the said Ryan should be condemned to pay for the said offence, the said Lambe prayed judgment." The petition further alleged that the said Ryan appeared to said summons and complaint and pleaded thereto as follows:—

That he is, and at the time mentioned in