The Legal News.

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SUPERIOR COURT—DISTRICT OF ST. FRANCIS.

SHERBROOKE, Sept. 10, 1891.

Before LYNCH, J.

LEPINE V. LAURENT.

Constitutional Law—Powers of Provincial Legislature—Sale of Liquor—53 Vict. (Q.) ch. 79, s. 39.

HELD:—*That the Provincial Legislature has the right to confer on municipalities power to prohibit the sale of intoxicating liquors by wholesale as well as by retail, and that 53 Vict. (Q.) ch. 79, s. 39, by which the town of Magog is authorized to restrain, regulate, or* PROHIBIT *the sale of any spirituous, vinous, alcoholic or intoxicating liquors by retail* OR WHOLESALE *within the limits of the town, is intra vires.*

The following judgment was delivered by Mr. Justice Lynch, at Sherbrooke, in the case of Napoléon Lepine, of Magog, petitioner, against Arthur P. Laurent, collector of provincial revenue, to compel the respondent to issue a wholesale liquor license to the petitioner.

LYNCH, J.:—

In 1890 the legislature of Quebec, by the Act 53 Vict. chap. 79, incorporated the Town of Magog; and by section 39 power was given the Municipal Council to pass by-laws, among other purposes—"To restrain, regu- "late or prohibit the sale of any spirituous, "vinous, alcoholic or intoxicating liquors, by "retail or wholesale within the limits of the "town."

On the 13th April, 1891, the Council of the Town of Magog passed the following by-law: "It is hereby enacted that on and after the "1st day of May, 1891, the granting of li- "censes for the sale of spirituous, vinous, "alcoholic or intoxicating liquors, in any "quantities by wholesale or retail, in stores, "shops and all other places (excepting ho- "tels), within the limits of the Town of Ma- "gog, is hereby prohibited, and the granting "of certificates for such sale will be refused "by this Council in accordance with the "provisions of article 39 of the Act of incor- "poration of the Town of Magog and other "provisions of the statutes of the Province "of Quebec."

It would appear that prior to the 1st of May last, petitioner had a license for the sale of liquor by wholesale at said Town of Magog; and that he subsequently applied to the defendant, the collector of provincial revenue for said district, for the renewal of such wholesale license, tendering him therefor the fees fixed by the statute 54 Vic. Cap. 13, Sec. 12. To this tender formally made by a notary public, defendant answered that he could not accept, that he must be governed by the dispositions of the Act 53 Vic. Cap. 79, and of the by-law passed by the Corporation of Magog in virtue of this statute, so long as that by-law remains in force.

On the 17th August last, petitioner applied to this Court for the issuance of a writ of mandamus, addressed to the defendant, ordering him to appear and show cause why a peremptory writ should not issue, enjoining him to grant petitioner the wholesale license for which he had applied; and with the petition was a deposit of the amount of fees required by law. It was ordered that a copy of the petition should be served on the defendant, with a notice that the same would be heard on the 20th.

On the last named day petitioner and defendant appeared by their respective counsel, and the Corporation of the Town of Magog applied to be permitted to appear and to be heard by counsel, which application was granted. The main facts relied on by petitioner were admitted at the argument; and the only question at all seriously discussed was the constitutional right of the Quebec legislature to authorize the Council of Magog to prohibit the sale of liquor, as had been done by the section of the Act of incorporation above quoted. It was incidentally suggested by defendant's counsel that the allegations of the petition did not disclose a right to the writ of mandamus; and that the more correct proceeding on the part of petitioner, would be an action to set aside the by-law. It is alleged that it was the

duty of defendant, on payment of the prescribed fee, to have granted petitioner his license, and if that be so, the writ is clearly demandable under par. 2 of Art. 1022, C. P. In the *Sulte* case, which was not unlike the present one as regards the principle involved, the proceeding was by mandamus; and the defendant raised the same objection; but it was overruled, and the case went to the Queen's Bench and Supreme Court. On the suggestion of petitioner's counsel the Attorney General has been notified to appear if he saw fit; and he has declined to do so.

The issue, therefore, is clear and distinct; and, although differing in some respects from that presented in what may now be regarded as the leading and decisive cases affecting the respective powers of Parliament and of legislature, recourse must be had to them to aid in determining where the legislative power rests. As regards the matter now under consideration, the sole questions are, had the legislature the right to confer upon the Magog Council the power to pass a by-law to prohibit the sale of liquor by wholesale — and was defendant bound to observe such by-law.

Our jurisprudence on the general question of prohibitory power, was, certainly, for several years after Confederation, in what may be designated an embryo state, not having received the full development which has more recently been given to it by the pronouncements of the highest Courts of the Province, of the Dominion, and of the Empire. Among the early decisions which are quoted in support of the view that Parliament alone can deal with the question of prohibition, is that of *Cooey & The County of Brome.* Having been counsel in that case, I know something of what the issues really were. It was on a petition to set aside a by-law adopting the Temperance Act of 1864, which it was contended had been repealed, as regards the Province of Quebec, by the Municipal Code and the License Act. The late Mr. Justice Dunkin did hold that the legislature had not repealed, and could not repeal, the Temperance Act. His judgment was set aside by the Court of Appeals on a different ground, — an informality in the manner of taking the vote. I find, however, that the members of that Court expressed their views freely on the question of legislative power. The late Sir Antoine Dorion said: "Before the union of the Provinces "was effected by Confederation, the power "to prohibit the sale of intoxicating liquors "had already been conferred by the Tem-"perance Act of 1864, to the municipalities "of the Provinces of Upper and Lower Can-"ada. It was by that Act made a matter of "local and municipal regulation. By the "Confederation Act all the laws then in force "in the several provinces were continued "(sec. 129), and municipal institutions (sub. "sec. 8), as well as all matters of a merely "local or private nature in each province "(sub. sec. 16, sec. 92), were placed under "exclusive legislative control of the several "provinces. In the absence of any expres-"sions to restrict the powers so conferred, "they must be understood to comprise all "those matters, which at the time the union "was effected, had been considered by the "then existing legislatures as belonging to "municipal institutions and as being of a "local or provincial character. This would "comprise the authority which the legisla-"ture of United Canada had already dele-"gated to the several municipalities to pro-"hibit the sale of intoxicating liquors within "the limits of such municipalities. The "meaning of the words trade and commerce "as used in the second sub-section of sec. 91 "of the B. N. A. Act ought to be restricted "to those branches of commerce of a broader "application than those already enumerated "and which are specially provided for in "sec. 91, such as the import and export "trade of the country, customs and excise "duties, and generally all those matters of "trade affecting the whole Dominion, or "more than one of the provinces or their "trade relations with one another, or with "the Empire or any of its possessions. I "do not wish here to lay down as a rule that "there are no cases in which the Dominion "Parliament could not regulate or prohibit "the sale of intoxicating liquors or other "articles of trade within the Provinces "composing the Dominion.

"It is not necessary to express any opin-"ion what might be the authority of the

"Dominion Parliament in certain possible "contingencies; it suffices for this case to "say that the Temperance Act of 1864 must "be considered as belonging to the latter "class of subjects coming within the description of local or police regulations; and this "I believe is the opinion of all the members "of this Court.

"From the best consideration I have been "able to give to the question now under review, I have come to the conclusion that "the legislature of the Province of Quebec "had full power to deal with the Temperance Act of 1864, and to alter and repeal "any of its provisions conferring on Municipal Councils the right to prohibit the "sale of intoxicating liquors within their "municipality."

Mr. Justice Ramsay said: "Fortunately "we are not called upon to reconsider sub "sec. 9 of sec. 92 of the B. N. A. Act, for a "prohibition to sell intoxicating liquors is "certainly not a license, and it cannot assist "in raising a revenue. Then, is a prohibition to sell intoxicating liquors within the "limits of a local municipality, a matter of a "merely local or private nature in the Province, and furthermore does it interfere "with the regulation of trade and commerce? "I cannot think that the exclusive power to "regulate trade and commerce can be interpreted in an absolute manner; and we "must therefore constantly enquire whether "the matter does not more exclusively belong to some local power. Here it is contended that a prohibitory by-law is not "dependent on the municipal institutions of "the province. But, as it has already been "observed, the Act of 1864 evidently treats "it as a municipal matter, and to attempt to "treat these local prohibitions as a regulation of trade and commerce appears to me "to be ridiculous exaggeration. I therefore "think that the local legislature has the "right to deal with the prohibition."

Mr. Justice Cross said: "Municipal government may include much that concerns "the regulation of trade, and laws affecting "trade may interfere largely with municipal "regulations. When special trading operations become prejudicial to public health "and morals, the higher law of the public "good would seem to require the supremacy "of the local municipal control to restrain "the mischief of laws of the class to regulate "trade which should be general, not local or "special in their application. To prevent "abuses resulting from the sale of intoxicating liquors on Sunday, or at inopportune "places, might be held to be reasonable "exercise of local municipal power, although "it might affect the volume of trade in these "articles. We find the power to prohibit "the sale of intoxicating liquors distinctly "attributed to, and exercised by, our municipal institutions before Confederation; "and, being already invested with that "power, we have no warrant for divesting "them of it, and must, therefore, leave them "in possession of it.'

I have quoted thus largely from the views of the learned Judges of the Provincial Court of Appeal in the *Cooey* case—which, so far as I know, are not reported—in order to show how the opinions expressed thus early (1878) by them were afterwards, in the main, adopted by the higher appellate Courts, which were subsequently called upon to judicially interpret sects. 91 and 92 of the Union Act, regarding the respective powers of Parliament and Legislature to deal with the vexed questions of license and prohibition. I ought to say, to correct a false impression, that the judgment of the Court of Appeal in the *Cooey* case was set aside by the Supreme Court by consent,—the petitioner not caring to proceed further.

In 1877 the legislature of Ontario adopted the "Liquor License Act" which contained stringent provisions respecting the regulation of the sale of spirituous liquors, and gave rise to what is known as the *Hodge* case, which was adjudicated upon by the Privy Council the 13th Dec. 1883.

In 1878 Parliament passed "The Canada Temperance Act," which permitted the electors of any municipality to declare in favor of the prohibition of the traffic in intoxicating liquors within the limits of that municipality. The *Russell* case resulted from this legislation and was pronounced upon by the Privy Council on the 23rd June, 1882.

In 1883 Parliament, largely influenced by inferences drawn from the judgment of the Privy Council in the *Russell* case, legislated respecting the sale of intoxicating liquors, and the issue of licenses therefor. This legislation was regarded with great disfavor by all the provinces ; and a joint case to test its constitutionality was submitted to the Supreme Court which declared it *ultra vires* of the powers of Parliament in its general principles; and this view was confirmed by the decision of the Judicial Committee of the Privy Council rendered on the 12th day of December, 1885.

While their Lordships of the Privy Council have in these three important judgments remained strictly within the issues submitted to them they have laid down as applicable to each distinct case certain general principles of interpretation, which must always serve as determining tests in construing the powers of Parliament and legislature in dealing with the regulation of the liquor traffic.

The ruling on "The Liquor License Act of 1883" has set at rest all controversy regarding the question as to where lies, under the constitution, the licensing power. It is thus tersely expressed "that the Liquor License Act of 1883 and the Act of 1884, amending the same, are not within the legislative authority of the Parliament of Canada."

By the *Russell* case it is determined that Parliament had authority to pass "The Canada Temperance Act of 1878," and it is declared : — "Parliament does not treat the promotion of temperance as desirable in one Province more than in another, but as desirable everywhere throughout the Dominion, Parliament deals with the subject as one of general concern to the Dominion upon which uniformity of legislation is desirable, and the Parliament alone can so deal with it."

By the *Hodge* case it is decided that "The "Liquor-License Act of 1877 is so far con- "fined in its operation to municipalities in "the Province of Ontario, and is entirely local "in its character and operation"—that the regulations which may be adopted under it, "seem to be all matters of a merely local "nature in the Province, and to be similar "to, though not identical in all respects with, "the powers then belonging to municipal "institutions under the previously existing "law passed by the local parliament." "Their "Lordships consider that the powers in- "tended to be conferred by the Act in ques- "tion, when properly understood, are to "make regulations in the nature of police or "municipal regulations of a merely local "character, as such they cannot be said to "interfere with the general regulation of "trade and commerce which belongs to the "Dominion Parliament, and do not conflict "with the provisions of the Canada Temper- "ance Act, which does not appear to have "as yet been locally adopted." "The subjects of legislation——seem to come within the heads Nos. 8—15 and 16 of Sec. 92 of the B. N. A. Act.

Since the rendition of these judgments, or at least of some of them, our Courts have had occasion in several instances to apply them. In the *Sulte* case, to which reference has already been made, the late Mr. Justice Ramsay in rendering the unanimous judgment of the Court of Queen's Bench Oct. 7th 1882 (5Leg. News, p. 330) said: "It may be at "once conceded that the power to pass prohi- "bitory liquor laws is not essential to the ex- "istence of municipal institutions, and that "consequently in a very restricted reading "of sub. sec. 8 (sec. 92) it would not justify "the local legislature in passing a prohibi- "tory liquor law. In so far as the Province "of Quebec is concerned, municipal institu- "tions were the creation of special statutes. "The general Act was passed no longer back "than 1855. Among other things County "Councils were given the power to make by- "laws for prohibiting and preventing the sale "of all spirituous,vinous,alcoholic and intoxi- "cating liquors &c." "These Statutes were in "force at the time of confederation." . . "We hold, then, that under a proper inter- "pretation of sub-sec. 8 the right to pass a "prohibitory liquor law for the purposes of "municipal institutions has been reserved "to the local legislatures by the B. N. A. "Act. We have suspended our judgment "in this case for an unusual length of time "awaiting the decision of the Privy Council "in the case of *Russell* v. *The Queen*. It has

"not either expressly or by implication maintained that the Dominion Parliament can alone pass a prohibitory liquor law."—The *Sulte* case went to the Supreme Court, where the judgment of the Court of Queen's Bench was unanimously confirmed January 12th 1885. (11 Can. S.C.R. p. 25) Ch. J. "The case of "*Hodge* v. *Queen* just decided by the Privy "Council covers the constitutional question." Strong, J.—"I agree entirely with the judgment delivered by Mr. Justice Ramsay. "*Hodge* v. *The Queen*, decided by the Privy "Council since the judgment of the Court of "Queen's Bench was delivered, having put an "end to the question, any further discussion of "it is unnecessary." — Fournier, J.—"The "constitutional question has now to my "mind been definitely settled by the decision of the Privy Council in the case "*Hodge* v. *The Queen*." Gwynne, J. "It "seems to be supposed that the judgment of "this Court in the *City of Fredericton* v. *The* "*Queen* is an authority to the effect that since "the passing of the B. N. A. Act, it is not "competent for provincial legislatures to restrain or prohibit in any manner, the sale of "any spirituous liquors, and that therefore "the legislature of the Province of Quebec "could not invest the Corporation of the City "of Three Rivers with the powers purported "to be vested in them by the 74 and 75 "secs. of the Act, 38 Vic. ch. 76, and that the "Dominion Parliament alone could enact the "provisions contained in the 75th sec. (the 1st "par. of which reads for restraining and prohibiting the sale of any spirituous &c.) "What was decided in the *City of Fredericton* "v. *The Queen* was, that the provincial legislature had not jurisdiction to pass such an "Act as "The Canada Temperance Act of "1878," and that the Dominion Parliament "alone was competent to pass it; but there "was nothing whatever in the decision "calculated to call in question the right of "the provincial legislatures to insert in all "Acts in relation to municipal institutions, "such provisions as those in question here."

In *Molson & Lambe* (M. L. R. 2 Q. B. 381) the Court of Appeal again maintained the constitutionality of the Quebec license Act, the Chief Justice remarking that they were to be governed by the decision in the *Hodge* case, followed by the last decision rendered "by the Privy Council, holding that the "right to legislate on the issue of licenses for "the sale of liquor by wholesale or by retail, "belonged to the local legislatures." This case went to the Supreme Court, where the appeal was dismissed. All of the Judges concurred in saying that they regarded the constitutional question as definitely settled. Gwynne, J. observed:—All of these judgments rest upon the foundation that laws "which make, or which empower municipal "institutions to make regulations for granting licenses for the sale of intoxicating "liquors in taverns, shops, &c, are laws "which, as dealing with subjects of a purely "local, municipal, private and domestic "character are *intra vires* of the provincial "legislature."

In the last reported case bearing on this matter, of which I have any knowledge, *Moir & Village of Huntingdon* (20 R. L. 684) the Court of Queen's Bench held, that the power conferred upon local councils by Art. 561 of the municipal code to prohibit the sale by retail of intoxicating liquor, was within the competency of the legislature of the Province.

The learned counsel for the petitioner has sent me up for reference the record of a case from Three Rivers, *Desserveau & Lasalle*, together with the judgment of Mr. Justice Bourgeois therein. The facts there were in the main, as nearly as possible identical with those admitted to exist in this case. The learned Judge condemned the Collector to issue the license, holding that he had shewn no legal reasons for his refusal to do so. I regret very much not to have had an opportunity of examining the reasons which led my brother Judge to the conclusion at which he must have arrived that the local council of the parish of St. Anne de la Perade had no authority to pass a by-law, prohibiting the sale of liquor in such manner and to such extent as to divest the Collector of provincial revenue of the obligation to deliver a license to sell by wholesale. The conditions here are not however exactly similar to what they were in that case. It is possible that the decision there turned upon the absence of any provision in the municipal code authorising

the Council of the parish of Ste. Anne de la Perade to pass such a by-law, and that possibly the by-law itself did not apply, and could not be applied, to the case of a wholesale liquor license, and was limited in its operation to the prohibition of the sale of intoxicating liquors in quantities less than three gallons, or one dozen bottles, as authorized by art. 561 of the municipal code, and consequently could not apply to a wholesale license which would be in excess of the power thus delegated. I am not now called upon to determine any such questions. What the petitioner asks me to do, is, to declare that the legislature of Quebec had no right or authority under sec. 92 of the B. N. A. Act, to confer upon the municipal council of the Town of Magog the power of passing a by-law to prohibit within its limits the sale of liquor by wholesale, as has unquestionably been done by 53 Vic. cap. 79 of the Quebec Statutes, sec. 39. The Supreme Court and the Court of Appeals have, in the decisions referred to, supported by the judgment of the Privy Council in the *Hodge* case, emphatically laid down the doctrine that the regulation of the liquor traffic, wholesale and retail, is within the exclusive control of the local legislature; and the Court of Appeals in the *Moir* case has affirmed, in the most distinct manner, the right of the legislature to delegate to municipal councils the power of prohibiting the sale of liquor by retail. In the *Severn* case the Supreme Court went far in the direction of holding that the regulation of, and the right to license, the wholesale trade was not within the attributes of the legislature: but in the *Molson* case, the Chief Justice remarked:——"In view of the cases "determined by the Privy Council, since the "case of *Severn* v. *The Queen* was decided in "this Court, which appear to me to have "established conclusively that the right and "power to legislate in relation to the issue of "licenses for the sale of intoxicating liquors "by wholesale and retail belong to the local "legislature, we are bound to hold that the "Quebec license Act of 1878 and its amend-"ments, are valid and constitutional." It may then be assumed as judicially settled that the legislature of Quebec had and has, under the constitution, the power to delegate to municipal councils the authority to license or to prohibit the sale by retail of intoxicating liquor, and to license the sale by wholesale; but it is said that the same power does not exist concerning the prohibition of the sale by wholesale. Why should the one be treated differently from the other? It may be as important in the interest of the locality, and in some instances possibly more so, to prohibit the sale by wholesale as by retail: and can the one local prohibition be regarded as an interference with the regulation of trade and commerce when the other is not? I must confess my inability to appreciate the distinction. The late Chief Justice Dorion, in the course of his observations in the *Cooey* case, quoted two decisions of the Court of Queen's Bench of Ontario, which have a decided bearing on the point now under consideration. In the case of *Regina* v. *Taylor* it was said:—"The Ontario legis-"lature has a right to license or prohibit the "sale of liquor in shops or taverns, and in "other places of the like kind, because it has "the exclusive power over municipal institu-"tions: and these institutions had before "and at the time of Confederation the ex-"ercise of these powers, and because such "power, read in connection with sec. 92 sub. "sec. 16 of the Confederation Act, is now a "matter of a merely local or private nature "in the Province. That power is in restraint "of trade, as well as a matter of police. The "general regulation of trade and commerce "which is vested in the Dominion govern-"ment must be considered to be modified "by the powers which the Ontario legis-"lature, acting in relation to municipal in-"stitutions, may properly exercise." The same Court also held in *Slavin* v. *The Corporation of the village of Orillia*:—"That by-laws "passed by municipal corporations *wholly* "*prohibiting* spirituous liquors in shops and "places other than houses of public enter-"tainment and limiting the number of "tavern licenses to nine, were valid as be-"ing within the powers of the corporation "under the 32 Vict. cap. 32 Ont., and that it "was within the power of the Provincial "legislature to confer such power."

These judgments express my view of the power of the legislature; and they have re

ceived their full confirmation by the judgments since rendered and to which I have already referred. Before Confederation our municipal law ch. 24 of the Con. Sts. of Lower Canada—like that of Upper Canada—recognized the right of municipal councils to prohibit generally the sale of liquors; sec. 26, sub. sec. 11, conferred upon all county councils in the month of March, of each year, the power to pass by-laws "for prohibiting and preventing the sale of *all* spirituous etc. liquors," and by sub. sec. 16 of sec. 27 every local council might make a similar by-law in any year when the county council had failed to do so in the month of March. This power to prohibit generally the sale of liquors, thus unmistakably conferred upon and enjoyed by municipal councils, prior to confederation, has been held to be continuing and not to have been disturbed by any provision of the Union Act; and it certainly has not since been taken away by any competent authority.

I do not feel that it is necessary for me to pursue the enquiry further. From the best thought and attention which I have been able to give this matter, I have come to the conclusion that the inherent right and responsibility, under the constitution, of controlling municipal institutions in the Province belongs to the legislature; and that the legislature may, and from its very nature must, delegate this control to councils, the recognized guardians and administrators of these municipal institutions; and that one of the most important elements of this control is the regulation of the liquor traffic, which may be effected in the discretion of the Council, under the power so delegated, either by a general or partial system of license, or by a general or partial system of prohibition, or by a combination of both systems.

Was defendant bound to conform to the requirement of the by-law prohibiting the sale of liquor by wholesale in the Town of Magog, and to refuse the license asked for by petitioner?

By the Quebec license Act, 41 Vict. cap. 3, sec. 48, the applicant for a wholesale shop license, was obliged to produce the same certificate confirmed by the Council, as was required for a hotel license. This formality being observed, and on payment of the requisite duty, he was entitled to his wholesale license sec. 70, unless the sale in the municipality had been prohibited by by-law, sec. 51. Sec. 48 was amended in 1880, by 43-44 Vic. cap. 11, sec. 14, by taking away the necessity of a certificate for a wholesale license and by providing that "wholesale liquor shop licenses are granted simply upon payment to the proper license inspector of the required duties and fees." This latter provision was not reproduced in the Revised Statutes of Quebec and has disappeared entirely, so that under Art. 892 it is now the duty of the collector of provincial revenue to issue on application a wholesale liquor shop license on payment of the requisite fees unless he has received under Art. 860 copy of a municipal by-law prohibiting the sale of liquors in the municipality, in which case he is forbidden to issue any license except it be for a steamboat bar or a railway buffet. Here it is admitted that the defendant had received a copy of the by-law in question, at the time when petitioner applied to him for a wholesale liquor license: and I cannot conceive how it was possible for defendant to have given any other answer than the one which is embodied in the formal tender and offer made to him by petitioner of the requisite fees and which he signed. "*Je ne puis accepter cette offre parceque je dois m'en tenir aux dispositions de l'acte* 53 *victoria ch.* 79 *et du règlement passé par la Corporation de Magog en vertu de ce Statut tant que le dit règlement reste en vigueur.*"

On the whole I consider that sec. 39 of cap. 79, 53 Vic. Quebec, in so far as it authorizes the Municipal Council of the Town of Magog, to pass by-laws to restrain, regulate or prohibit the sale of any spirituous, vinous, alcoholic or intoxicating liquors by retail or wholesale within the limits of the town, is within the competency and powers of the legislature of this Province—and not *ultra vires* thereof—that the Municipal Council of the Town of Magog in passing and enacting the by-law which is attacked by petitioner, was competent and acted *intra vires* of the power conferred upon it by said section,—that the said by-law is in all respects legal and binding for all the purposes thereof and of said section—and that defendant acted

correctly and legally in refusing to accept the tender and offer of petitioner. The petition cannot be granted and is therefore rejected with costs awarded to J. S. Broderick, attorney for defendant.

G. L. de Lottinville, for petitioner.

J. S. Broderick, for defendant.

J. L. Terrill, Q. C., for corporation of Magog.

CHANCERY DIVISION.

LONDON, April 24, 1891.

Before NORTH, J.

THE PORTUGUESE CONSOLIDATED COPPER MINES COMPANY.

Company—Contributory — Director—Qualification—Allotment—Notice—Reasonable Time.

The articles of a company incorporated in October, 1888, provided that a director's qualification should be the holding of at least forty shares. Lord Inchiquin was one of the first directors, and at a meeting on October 25, 1888, at which he was not present, forty shares were allotted to him and were registered in his name. He stated, by affidavit, that he never applied for these shares, received no notice of their allotment, and did not know of it until August, 1890. He had, however, attended meetings as director in November, 1888. In January, 1889, he acquired forty fully paid-up shares. A petition was presented in January, 1890, and the company was wound up. Lord Inchiquin having been placed upon the list of contributories in respect of the forty shares originally allotted to him, on which nothing had been paid up, applied by summons to have his name removed, contending that he had never become the lawful owner of the unpaid shares, and that the fully paid-up shares were a sufficient qualification as director, having been acquired within a reasonable time.

NORTH, J., held that Lord Inchiquin must remain on the list in respect of the forty unpaid shares, on the ground that the reasonable time for acquiring qualification shares expires as soon as a director has acted, and also that Lord Inchiquin must legally be presumed to have known of the allotment.

INSOLVENT NOTICES, ETC.

Quebec Official Gazette, Nov. 14.

Judicial Abandonments.

Cyr & frère, hatters and shoe-dealers, Montreal, Nov. 7.

Eusèbe Dorion, trader, Metapedia, district of Gaspé, Nov. 13.

Gédéon Lalonde, general trader, Côteau du Lac, Nov. 6.

Mary Jane Leblanc, trader, Carleton, Nov. 11.

Stanislas Robitaille, Indian curiosity dealer, Montreal, Nov. 10.

Curators appointed.

Re Bernier, Savard & Pepin, Quebec.—H. A. Bedard, Quebec, curator, Nov. 6.

Re François Xavier Desrochers.—A. Gaumond, parish of St. Jean Deschaillons, curator, Nov. 11.

Re J. B. Fortier, Ste. Claire.—H. A. Bedard, Quebec, curator, Nov. 11.

Re Moïse Jolicœur, Montreal, doing business under the name of Jolicœur & Drolet.—D. Seath, Montreal, curator, Nov. 11.

Re W. H. Larue, Murray Bay.—H. A. Bedard, Quebec, curator, Nov. 7.

Re Napoléon Morin.—Bilodeau & Renaud, Montreal, joint curator, Nov. 9.

Re O. Napoléon Morin, St. Pie.—J. Morin, St. Hyacinthe, curator, Nov. 7.

Re Leude and Gustave Potvin.—A. Gaumond, St. Jean Deschaillons, curator, Nov. 10.

Dividends.

Re Cantin & Robitaille, Quebec.—First and final dividend (11½), payable Nov. 26, D. Arcand, Quebec, curator.

Re O. Chamberland, boot and shoe dealer, Montreal.—First and final dividend, payable Dec. 1, C. Desmarteau, Montreal, curator.

Re John Couturier, Murray Bay.—Second and final dividend, payable Dec. 1, H. A. Bedard, Quebec, curator.

Re M. J. Dayet & Co., wine merchants, Quebec.—Second and final dividend, payable Nov. 30, N. Matte, Quebec, curator.

Re Dufour & Couturier, Murray Bay.—Second and final dividend, payable Dec. 1st, H. A. Bedard, Quebec, curator.

Re Francis Ouellette, *alias* Frank Willett, hotel-keeper, Farnham.—First and final dividend, payable Dec. 1, C. Desmarteau, Montreal, curator.

Re Xénophon Renaud, furniture dealer.—First dividend, payable Dec. 2, C. Desmarteau, Montreal, curator.

Re R. Tyler Sons & Co., Montreal.—Second and final dividend, payable Dec. 1, W. A. Caldwell, Montreal, curator.

Separation as to property.

Mathilde Gélineau vs. Moïse Cartier, hotel-keeper, parish of Notre Dame de Stanbridge, district of Bedford, Nov. 2.

Angélina Valin vs. Adolphe Dufresne, farmer and carriage-maker, parish of St. Dominique, district of St. Hyacinthe, Nov. 5.

Cadastre.

Plan of subdivision of part of lot 198 for the parish of l'Ancienne Lorette, registration division of Quebec, deposited.