The Legal News.

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A principle extremely pertinent to the case of the District Magistrate's Bill was stated by the Hon. R. Laflamme, Q.C., while Minister of Justice. The following is an extract from a report made by that gentleman upon an Act of the British Columbia Legislature, conferring certain wide powers on the provincial gold commissioner:—"It is not, in my opinion, necessary to bring a provincial court within the provisions of this section (96) that it should be called by the particular name of superior, district or county court. The exception to that section indicates that the courts of probate in Nova Scotia and New Brunswick would, unless specially excepted, have come within the definition of superior, district, or county courts. It will readily be seen how easy it would be for the local legislatures, by gradually extending the jurisdiction of these mining courts and by curtailing the jurisdictian of the county courts or superior courts as now established, to bring within their own reach not only the administration of justice in the province, but also practically the appointment of the judges of the courts in which justice is administered."

With reference to the exercise of the power of disallowance of provincial Acts, it is interesting to note that it has been applied in only 65 cases since Confederation, or less than one per cent., the number of statutes passed during that period being nearly ten thousand. According to a statement made by the Minister of Justice, the veto power has been exercised 44 times by Conservative administrations during fifteen years, and 21 times by Liberal administrations during five years.

The retirement of Mr. Justice Monk, after nearly thirty years' judicial service, is an event of some importance in the history of the year. Mr. Justice Monk's appointment to the Superior Court, dates farther back than that of any other judge of the Montreal district, and he has also sat for about twenty years in the Queen's Bench. During this long period, it has fallen to the lot of the learned Judge to decide, or to take part in the decision of, many memorable causes, and his judgments have been distinguished by a broadness of vision, an astuteness, and an intimate knowledge of jurisprudence, which have reflected honour upon the bench. For a year or more, failing health has prevented him from taking such an active part as formerly in the work of his Court, and the bar have learned with regret that his indisposition is so serious as to enforce his retirement. Personally, Mr. Justice Monk has always enjoyed the esteem and regard of the bar as well as of his brother judges. He has been distinguished for uniform courtesy and patient attention to counsel pleading before him. His decisions have commanded respect even from those to whom they were adverse. His stately figure and genial presence, so familiar to more than one generation of lawyers, will be keenly missed from the Courts.

The death of Sir John Rose recalls the fact that for many years he was a hard-working lawyer in Montreal, and for some time a partner of Mr. Justice Monk, whose retirement is noticed in the present issue. Mr. Rose had to make his own way in the world. He began by teaching school, was afterwards engaged for some time in the *Herald* office in Montreal, and entered upon practice at a time when, if the field was not so fully occupied, legal business was much more restricted than it is at present. He achieved great success as a commercial lawyer, and as a counsel before juries. His entrance into political life, and his duties as a member of the Cabinet, withdrew him from the active pursuits of the profession, but he re-appeared at the bar later, and took part in a jury case before the late Mr. Justice Smith about twenty years ago, on which occasion he had rather a lively controversy with the presiding Judge, whose rulings on some points he disputed with more warmth than is often exhibited. A favorable opportunity for entering into banking business in England withdrew him finally from the career of advocacy. In his new pursuit he

was equally successful. He was honored with a baronetcy, and his business connection was so prosperous that the newspapers say that his estate is valued at nearly two millions of dollars. His death occurred very suddenly while shooting in Scotland.

The bar of Montreal has lost another man of note in Mr. Charles J. Coursol, who for many years held the office of Police Magistrate and Judge of Sessions. Mr. Coursol was a magistrate of remarkable energy, shrewdness, and impartiality, and filled the responsible positions above mentioned with unquestionable ability.

SUPERIOR COURT.

MONTREAL, Sept. 22, 1888.

Before GLOBENSKY, J.

TASSE et al. *v.* MURPHY.

Summary Procedure—Inscription for Enquête—Option for Enquête and Merits.

This was an action under the new summary procedure rules, inscribed for proof on Sept. 19th before the 3rd Division.

Sept. 20. *Beaudin* moved to strike the inscription, 1st, Because the defendant had by his plea made option for *Enquête* and Merits: 2nd, Because Sept. 19th was not an *Enquête* day: 3rd, Because the Third Division is not the proper Court for *Enquête.*

A. B. Major contra:—The option for *Enquête* and Merits is null, article 887 providing that summary matters shall be tried "according to the rules set forth in this chapter." Article 894 is clear, as to the right to go to proof on any juridical day. The Third Division has all the powers of the Court and may take *Enquêtes.*

Sept: 22. Motion dismissed with costs.

McGibbon, Major & Claxton, Attorneys for Plaintiffs.

Loranger & Beaudin, Attorneys for Defendants.

PROHIBITION—LICENSED BREWERS —QUEBEC LICENSE ACT, 41 *VIC. CH.* 3.

MOLSON *et al.* & LAMBE *es qual.*

[Continued from p. 296.]

GWYNNE, J. (*diss.*) :—

The questions involved in this case are :

1o. As to the procedure by writ of Prohibition according to the law prevailing in the Province of Quebec; and

2o. As to the proper determination upon the merits of the issue joined in the proceedings in prohibition, this latter question depending upon the validity and construction of an Act of the Legislature of the Province.

The judgment of Willes, J., delivering the unanimous opinion of the Judges consulted by the House of Lords in the *The Mayor of London* v. *Cox*, L. Rep. 2 E. & I. App. 279, and which is an authoritative and almost an exhaustive treatise upon all questions of prohibition under the law of England, affirms, as well established law, that the Courts that may award Prohibition, being informed either by the parties themselves or by any stranger, that any Court temporal or ecclesiastical doth hold plea of that whereof they have no jurisdiction, may lawfully prohibit the same, as well after judgment and execution as before. That in whatever stage of the proceeding in the Inferior Court, whether on the face of the complaint itself, or by collateral matter, set up by way of plea to that complaint, or in evidence in the course of the proceedings in the inferior Court, or by affidavit, the fact is made to appear to the Court having power to award prohibition, that the case is of such a nature as to shew a want of jurisdiction in the inferior court to decide the particular case, prohibition lies either at the suit of a stranger or of a party, even though there might be a remedy by appeal from the judgment of the inferior tribunal, citing upon this latter point *Burder* v. *Veley*, 12 Ad. & El. 263. A fortiori if in the particular proceeding in the Inferior Court, there be no appeal from the judgment of that Court, prohibition will lie, and to an application for a prohibition, or upon the determination of an issue whether of law or of fact joined in the proceedings in prohibition, it cannot be urged as a sufficient objection to the writ going absolutely that in case of a conviction by the inferior tribunal, the party might have a remedy by certiorari to quash the conviction, indeed the writ being issuable at the suit of a stranger as well as of a party, shews that that the right to it could not be affected by

any such suggestion. In the above case of *The Mayor of London* v. *Cox*, Willes, J., referring to the writ being issuable at the suit of a stranger, says: "In this respect, Prohibition "strongly resembles mandamus, where the "Court of Queen's Bench exercises a discre- "tion as to whether the writ shall go, *but the* "*writ once granted* must be met by a return, "shewing a legal answer," and he adds: "The writ, however, although it may be of "right in the sense that upon an application "being made in proper time, upon sufficient "materials, by a party who has not by mis- "conduct or laches lost his right, its grant "or refusal is not in the mere discretion of "the Court, is not a writ of course like a writ "of summons in an ordinary suit, but is the "subject of a special application to the Court "upon affidavit, which application and the "proceedings thereupon are now regulated "by the Act 1st Wm. 4th, ch. 21."

Before that Act, the declaration in prohibition was *qui tam* and it supposed a contempt in disobeying an imaginary precedent writ of prohibition.

The Act of Wm. 4th enacted that:—

"It shall not be necessary to file a sugges- "tion on any application for a writ of pro- "hibition, but such application may be made "on affidavits only, and in case the party "applying shall be directed to declare in "prohibition before writ issued, such declar- "ation shall be expressed to be on behalf of "such party only, and not as heretofore on "behalf of the party and of His Majesty, "and shall contain and set forth in a concise "manner, so much only of the proceeding in "the Court below as may be necessary to "shew the ground of the application, without "alleging the delivery of a writ or any con- "tempt, and shall conclude by praying that "a writ of prohibition may issue; to which "declaration the party defendant may demur "or plead such matters by way of traverse "or otherwise, as may be proper to shew "that the writ ought not to issue, and con- "clude by praying that such writ may not "issue; and judgment shall be given that "the writ of prohibition do or do not issue "as justice may require, and the party in "whose favour judgment shall be given, "whether on non-suit, verdict, demurrer or "otherwise, shall be entitled to the costs "attending the application and subsequent "proceedings and have judgment to recover "the same."

The practice under this statute seems to have been in accordance with the ancient usage that when upon the affidavits filed for and against the application, it clearly appeared that the jurisdiction of the Inferior Court to adjudicate in the particular case could not be questioned, the Court would neither grant the rule nor put the parties to the expense of a declaration and proceedings in prohibition, so in like manner, if it should clearly appear that the writ ought to go absolutely, it was granted at once, without requiring a declaration in prohibition; but if it appeared open to doubt whether the writ should or not be finally granted absolute, if the question was agreeable, and always upon the demand of the party against whom the application was made, then the applicant was ordered to declare in prohibition, in order that the points to be argued should be brought before the Court, in the shape of a precise issue either of law or of fact upon records.

See *Lloyd* v. *Jones*, 6 C. B. 81; *In re Chancellor of Oxford*, 1 Q. B. 974; *In re Dean of York*, 2 Q. B. 39; *Mossop* v. *G. N. Ry. Co.*, 16 C. B. 585; *In re Aykroyd*, 1 Ex. 487; *Rennington* v. *Dolby*, 9 Q. B. 178.

Subsequently the practice upon applications for writs of prohibition to issue, addressed to judges of the County Courts, was regulated by 13 & 14th Vict. ch. 61, and 19 & 20th Vict. ch. 108, the 42nd section of which latter Act enacts that "when an application "shall be made to a Superior Court or a "judge thereof for a writ of prohibition to be "addressed to a judge of a County Court, the "matter shall be finally disposed of by rule "or order, and no declaration or further pro- "ceedings in prohibition shall be allowed."

Now the practice in the Province of Quebec is regulated by the code of civil procedure, the 1031st article of which code enacts that writs of prohibition are applied for, obtained and executed in the same manner as writs of mandamus and with the same formalities, thus placing the proceedings for writs of prohibition in all respects upon the same footing as writs of mandamus, which, in

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 sup- "ported 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 proceed- "ings 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 hereinafter 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 Parliament, 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 intoxica- "ting 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

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 Qnebec 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

licensed for that purpose, should sell in the city of Montreal, in any quantity whatever, any intoxicating liquor, is liable for each offence to a fine of ninety-five dollars, and that the said Andrew Ryan on the 6th day of June 1882, in the city of Montreal, sold intoxicating liquor as alleged in the complaint laid before the Police Magistrate. That the said Andrew Ryan admitted the sale in question, before the said Police Magistrate. That the said Quebec License law of 1878 and its amendments are constitutional. That it was in due form passed by the Legislature of the Province of Quebec in conformity with the British North America Act of 1867. That by force of the 92nd section of the said British North America Act, the Legislature of the Province of Quebec has the right to pass the License law in question. That assuming the said John H. R. Molson and Brothers, brewers, to have the right, in virtue of the license which they have to sell, without any other license, beer of their own manufacture, still, the said Andrew Ryan had no right to hawk it about through the City of Montreal and to sell it outside of the premises of the said brewers, without being provided with the license required by the Quebec license law. That moreover the said Molson and Brothers themselves, have no right, in virtue of their license, to sell their beer outside of their premises without a lisense of the Province of Quebec. That in virtue of the 196th section of the said Quebec License Law of 1878, every action or prosecution in which the sum demanded does not exceed $100, may be tried before the Police Magistrate, and that the said Mathias C. Desnoyers was such Police Magistrate. That under these circumstances the prosecution instituted against the said Andrew Ryan, was legally instituted and came under the jurisdiction of the said Police Magistrate, who had in consequence the right to hear and decide it.

To this intervention, the petitioners pleaded in answer "that the so-called Li-"cense Law of the Province of Quebec of "1878 referred to in the said intervention, as "well as its amendments, is unconstitutional, "inasmuch as the same was passed *ultra* "*vires* of the Province of Quebec, and that "each, all and every of the said clauses re-"ferred to in the intervention and *moyens* "*d'intervention*, are unconstitutional and *ultra* "*vires* of the said Province of Quebec. And "the said petitioners aver, as they have al-"ready in their said petition averred, that "even supposing that the said license law "and its amendments are valid and consti-"tutional, yet the said petitioners, Molson & "Brothers, being duly licensed brewers at the "said city of Montreal, and the said Peti-"tioner, Andrew Ryan, being in their em-"ploy and their agent, were, under their said "license under the provisions of the Domi-"nion Acts of Parliament, justified and enti-"tled to sell the beer according to the usage "and custom of trade in the said Province.' And the petitioners, admitting the prosecution, defence, and admissions set up in the said intervention, denied the liability of the said Andrew Ryan, to the penalty claimed from him, and also denied the jurisdiction of the said Court of Special Sessions and of the said Police Magistrate, to take jurisdiction of the said cause.

To this the intervenant replied, insisting that all the allegations of his said intervention were well founded in law.

The parties to the said cause in prohibition were thus at issue.

Now the admissions referred to in the said intervention as having been made in the said cause, in the said Inferior Court before the said Police Magistrate, are precisely the same as have also been made in the cause in prohibition for the determination of the issues joined between the parties to that proceeding, and are as follows:—

1st. That the firm of John H. R. Molson and Brothers are brewers in Montreal and have carried on their business for a number of years past, and that they were duly licensed brewers under a license issued by the Dominion Government under and by virtue of the Act 43rd Victoria, ch. 19, entitled "The Inland Revenue Act of 1880."

2nd. That the said Andrew Ryan was at the time of the offence alleged, in the information, to have been committed by him, in the employ of the said firm of John H. R. Molson & Brothers as drayman, and that he was paid his wages as such drayman by a

monthly salary and by a commission on the monies by him collected for the sale of beer manufactured by the said Molson & Brothers in the brewery mentioned in their said license.

3rd. That the sale in question was made outside of the said brewery, but in the Revenue District of Montreal, and that the said Andrew Ryan, as drayman of the said firm, sold to a buyer who had not given his order at the office of the said firm, at the domicile of the said buyer.

4th. That it has been the immemorial custom and usage in the said City of Montreal for a drayman employed by brewers to sell and furnish beer to customers of the said brewers in the same manner, as the said sale was effected, without taking out a license.

5th. That the Local Legislature of Quebec have refunded to the brewers licensed by the Dominion Government, the amount of the license fee imposed by the Act of the Local Legislature upon such brewers, owing to and after the decision in the case of Severn and the Queen, decided in the Supreme Court of Canada at Ottawa.

Now proceedings in prohibition having been regularly instituted in accordance with the provisions of the code of civil procedure of the Province of Quebec, by a writ and declaration in prohibition to which an answer has been filed and a replication thereto, and issue having been joined in such proceedings upon the matters to be determined by the Superior Court in which such proceedings were instituted, it is obvious that these issues so joined, whatever they were, and whether of law or of fact, must be determined by the Court in which such proceedings are pending.

That the Court cannot evade the responsibility of passing its judgment upon those issues, by a suggestion that the points raised or any of them are points which the Inferior Court, whose jurisdiction under the facts and circumstances pleaded to is disputed, is competent itself to decide, and that if it should pronounce an erroneous judgment, then an application may be made to the Superior Court to interfere by *certiorari*.

It is out of the question to suppose that the law which provides such a precise procedure for bringing to issue in the Superior Court, the questions to be determined in prohibition cases, could sanction such a mode of dealing with them.

In the present case, the facts pleaded being admitted, the only questions to be determined were questions of law involving the construction and validity of a Statute of the Province of Quebec, of which Statute the act complained of and brought under the notice of the Inferior Court was alleged to be an infringement. It seems to be nothing short of a repudiation of those rights which are of the essence of and the inalienable prerogative of a Superior Court of common law to say that the Inferior Court whose jurisdiction in the given case was disputed, was as competent as the Superior Court to determine those questions of law.

If the jurisdiction of an Inferior Court over a particular state of facts, depends upon the construction and validity of an Act of a Provincial Legislature, and if issue be joined in a proceeding in prohibition properly instituted in a Superior Court, raising a question as to the construction and validity of such Provincial Act, how is it possible to contend that the Superior Court, in which such issue is pending, can evade the duty of determining it?

In *Brymer* v. *Atkins*, 1 H. Bl. 188, it is said to be an ancient and essential maxim of common law, that not merely Courts of common law of inferior jurisdiction, but that *all Courts of special jurisdiction*, created by Act of Parliament, must be limited in the exercise of that jurisdiction by such construction as the Courts of common law, that is to say, the Superior Courts may give to the statute. Upon this principle a question having arisen in *Gould* v. *Gapper*, 3 East, 472, upon a motion for a writ of prohibition after sentence in an ecclesiastical Court, in a matter of tithe, whether the Court had not proceeded upon an erroneous construction of an Act of Parliament, the applicant was directed to declare in prohibition that the question of the construction of the statute, which involved some doubt, should be brought up for solemn adjudication. The Court thus directing that to be done in the particular case, which in the case before us has been

done by the authority of the code of civil procedure in the Province of Quebec, and the question having been raised by a demurrer to the declaration in prohibition, it was adjudged that the construction of the statute by the ecclesiastical Court was erroneous, and that therefore the prohibition should go, although after sentence, and although the objection did not appear upon the face of the libel in the ecclesiastical Court, but was collected from the whole of the proceedings in that Court. *Gould* v. *Gapper*, 5 East, 345.

Now in the case before us, the questions raised by the issue joined in the proceeding in prohibition are:—

1st. Does the Quebec License Act of 1878, and its amendments, impose any obligation upon Brewers duly licensed as such by the Dominion Government to carry on the trade of Brewers in the Province of Quebec, to take out any, and if any, what license required by such the Quebec License Acts, to entitle the Brewers to dispose of the subject of their trade and of their manufacture within the said Province?

2nd. If the Provincial statute does impose such obligation, is the statute *quoad* the imposition of such obligation *ultra vires* of the Provincial Legislature? and

3rd. Is the sale and delivery by brewers in the City of Montreal, through the agency of their draymen, of the beer manufactured by them to their customers, at the dwelling-houses or places of business of the latter, under the circumstances appearing in the proceedings in Prohibition here, an infringement of the Quebec License Act of 1878, subjecting the brewers' drayman to the penalty imposed by the 71st or any other section of such License Act?

Every one of these questions must be answered in the affirmative, to give to the Police Magistrate, in the City of Montreal, jurisdiction over the act complained of and the person charged with having committed it. And these questions were, by the procedure of the Province of Quebec in Prohibition cases, as much before the Superior Court for its determination, as they would have been before the Superior Court in England, if as in *Gould* v. *Gapper*, the parties applying for a writ of prohibition had been ordered to declare, and had declared in prohibition, and issue had been joined thereon for the express purpose of obtaining the judgment of the Superior Court upon the questions which, in the present case, equally as in *Gould* v. *Gapper*, involved the construction of the statute in virtue of which the Inferior Court could have had, if it had any, jurisdiction over the subject matter or the person who had done the act complained of. The manner in which the Superior Court dealt with these issues so joined in a proceeding, duly instituted according to the course and practice of the Court, was this:—It adjudged the Quebec License Act in question to be *intra vires* of the Provincial Legislature, but declined to adjudicate upon the questions whether it did or not impose any obligation upon brewers duly licensed as such, by the Dominion Government under the Dominion Act 43 Vict., ch. 19, to take out any, and if any, what license from the Provincial Government, to entitle them to dispose of the subject of their trade manufactured by them; or whether the sale and delivery by Messrs. Molson & Brothers, through the agency of their drayman, of the beer manufactured by them to their customers, at the dwelling houses or places of business of the latter, under the circumstances appearing in the proceedings in Prohibition, was an infringement of the Quebec License Act of 1878, and its amendments, subjecting their drayman Ryan to the penalty imposed by the 71st section of the said Act.

(Concluded in next issue.)

GENERAL NOTES.

USE OF POISONS IN MANUFACTURES.—A manufacturer used a common mordant in dyeing certain cloth, by handling which a purchaser was poisoned; but the mordant was not at that time known to be poisonous to handle—the injury in question being the first known instance from it. *Held*, that the manufacturer was not liable. Mass. Sup. Jud. Ct., June 21, 1888. *Gould* v. *Slater Woollen Co.*

GRAMMAR HIS STRONG POINT.—Justice of the Peace—'Had you ever saw this man before?' Witness—'Yes.' 'Had he came before you went?' 'No.' 'Is them your eggs what you say was stole?' 'Yes.' 'Would you have recognized them if you had seen them before they were brung here?' 'Yes; I would have knowed them.' 'Speak grammatic, young man; it ain't proper to say "have knowed;" you should say "have knew."'—*Cincinnati Enquirer.*