

BRITTON, J., IN CHAMBERS.

OCTOBER 4TH, 1915.

HIGH COURT DIVISION.

REX v. BORROR.

Municipal Corporations—Transient Traders By-law—Conviction—Justice of the Peace—Jurisdiction—Absence of Evidence of Offence against By-law.

Motion to quash a conviction of the defendant for an alleged violation of a transient traders by-law of the City of Stratford. The conviction was made by a Justice of the Peace for the County of Perth, on the 3rd August, 1915; the defendant was found guilty of conducting the business of a transient trader without taking out the necessary license therefor; and he asked to have the conviction quashed and the fine and costs imposed remitted, upon the ground that the Justice had no jurisdiction because there was no evidence that the defendant did sell merchandise in the city.

The motion was heard at the London Weekly sittings.

G. S. Gibbons, for the defendant.

J. J. Coughlin, for the complainant.

BRITTON, J., said that, upon the admitted facts, there was no evidence of a sale by the defendant in the business as a transient trader in Stratford. The defendant was sent by his employers, the Columbus Oil Company of Ohio, to deliver oil that they regarded as sold oil. The defendant was not authorised to bargain or to increase the quantity of oil to be delivered or to reduce it. Orders had been given—not in Stratford—and the defendant was to deliver only in accordance with those orders. With the taking of the orders the defendant was not so connected that he could be charged as for a quasi-criminal offence.

Order made quashing conviction, with costs, fixed at \$20, to be paid by the complainant. If the fine and costs had been paid, they should be returned to the defendant.