

agreement was not bona fide, and convicted the defendant accordingly.

W. E. Raney, K.C., for the defendant.

W. E. Middleton, K.C., for the informant.

RIDDELL, J., considered the several grounds urged, and held:—

1. That the onus of satisfying the magistrate that the defendant came within the exception in sec. 583 (14) of the Consolidated Municipal Act, 1903, as a bona fide servant or employee of the manufacturer of the goods sold, lay upon the defendant, as provided by 6 Edw. VII. ch. 34, sec. 26 (O.); and, although there was no evidence contradicting the testimony of the document and the oral testimony of the defendant, the magistrate was within his jurisdiction in determining against the bona fides, there being no rule in our law that a Judge or jury or other trial tribunal must accredit any witness, even although not contradicted. [Reference to an article in the Law Notes for November, 1906, p. 147, and to Wigmore on Evidence, secs. 1010, 2035, 2948.]

2. While it was not proved that the sale was not made to a retail dealer, the same provisions of the Ontario Act and the provisions of the Dominion Act 8 & 9 Edw. VII. ch. 9, schedule 2, p. 110, applied.

3. The definition of "hawkers" given in sec. 583 (14) (a) of the Act of 1903 is not exhaustive, as the history of the legislation shews. [Regina v. Coutts, 5 O. R. 644, referred to.]

4. It was said that the defendant made only one sale, and therefore was not within the purview of the by-law. But it was admitted that he went from place to place with horses and conveyances drawing ranges for sale; and, though the admission as to sale and exhibiting was said to cover "just one range on one occasion only," there was no such limitation as to going from place to place, and that was what the statute and by-law covered: Regina v. Rawson, 22 O. R. 467.

5. The by-law may be attacked upon a motion to quash a conviction: Regina v. Cuthbert, 45 U. C. R. 19.

6. Any one desiring to peddle is entitled to a license, and the fees for such license being fixed in the by-law (sec. 2) for certain classes of persons only, the county could not refuse a license to other classes, or require a license fee to be paid therefor. The defendant, too, came within the classes named, and did not complain that he was refused a license.

7. The proviso (sec. 1) in respect of towns in the county not separate for municipal purposes from the county was not precisely