uniform duty imposed by the Municipality on all such houses, while, on the other hand, the language used implies the placing a discretionary power in the Council, to say what amount shall be paid respectively by the keepers of the different kind of houses, in order to obtain a license; and there are obvious reasons why it should be so.

The license granted to the applicant for the present year would be granted under the 251st sec. of the Municipal Act of 1866, he paying to the treasurer the amount specified in clause six of the by-law. That 251st section enacts that, "Every tavern license shall be issued by the Collector of Inland Revenue for the Revenue Division in which the hotel, tavern, house, vessel or place to which the license is to apply shall be situate," and that "the words 'tavern license' shall mean and include any such license as aforesaid, and no other;" and by the preceding 249th section, sub-sec. 1, tavern license certificates are defined to be "certificates to obtain licenses for the retail of spirituous, fermented or other manufactured liquors, to be drunk in the inn, alehouse, beer-house or any other house or place of public entertainment in which the same is sold;" se that, no matter what the house or place may be called, the Collector of Inland Revenue is to issue to the party who produces the proper certificate from the municipality, a tavern license.

On the whole, we see nothing to sustain the first objection.

Then as to the second objection, it is somewhat similar to the first. It was pressed on the argument by Mr. Palmer that the term "saloon" was not known to the law, or in the English language, and for that reason the by-law was bad. It is not used in the Statute, and the word saloon, in the sense used in the by-law, may not be found in a dictionary; yet, in common parlance, it is used every day, and is well understood to be a house or place in which spirituous liquors are sold and drunk; and we find a case in this Court, *In re Baxter* and *Hesson et al.* (12 U. C. R. 139), where a mandamus was asked for commanding the Inspectors to inspect a house of the applicant fitted up as a saloon, and if found entitled to a certificate of his having complied with a by-law relating to the licensing of saloons passed under the same Statute, 13 & 14 Vic., to grant him such certificate; and although the Court, in giving judgment, said that the statute law says nothing of saloons, yet the case shows that the term was used and understood; and the rule was refused, because the Court did not judicially know the qualifications that would fit a person to conduct a saloon well, and would not overrule inspectors, who were by the Legislature made judges of these matters.

It is quite immaterial by what appellation the house or place is known or called, if spirituous liquors, &c., are drunk or consumed in it. The licenses required, although called tavern licenses, are not restricted to houses of any particular denomination, but the language used is intended to cover the sale in any and every house or place, under certain conditions and in a particular manner, of spirituous and other liquors,—the intention of the Legislature being three-fold: for revenue purposes, the accommodation of the public, and to prevent houses in which such liquors are sold being under the management of improper persons.

We have not overlooked the 220th section of the Municipal Act of 1866, which precludes the Council from giving to any person an exclusive right of exercising any trade or calling; but this by-law refers to a class of houses of entertainment restricted in number, which the Councils are authorized to license.

We are, therefore, of opinion that, on both grounds, the application should be refused, and the rule discharged with costs.

Rule discharged.

THE CORPORATION OF THE UNITED TOWNSHIPS OF BURLEIGH, ANSTRUTHER, CHANDOS, CARDIFF, HARCOURT, BRUTON, AND MONMOUTH, v. HALES, ET. AL.

Original road allowance—Trees taken from—Right of Municipalities to recover for—C. S. U. Ch. 54, secs. 314, 331, sub-sec. 5—Competency of witness.

Held, that a township corporation, without having passed any by-law on the subject, could maintain trespass for cutting and carrying away trees growing upon Government allowances for roads; for the power to pass by-laws for preserving or selling such trees, gave them also the right to recover from a wrong-doer, their value, which right might be exercised without any by-law.

Held, also, that a person who when the suit was brought was entitled by agreement with the plaintiff to 25 per cent of the amount recovered for trees taken from such allowances, but who before the trial had released his right as regarded the land in question, was a competent witness.

[31 Vic. Queen's Bench, p. 72, 1867.

TRESPASS.—The declaration stated that before, &c., there were surveyed and established divers allowances for public roads within the said united townships, upon which road allowances timber trees of great value were growing: that the plaintiffs, as a corporate municipality, were entitled to the said timber trees; yet the defendants, on divers days, &c., entered upon such road allowances, and cut down and carried away timber trees, and converted the same to their own use.

The second count specified certain road allowances in the northern division and one road allowance in the southern division of the township of Burleigh, on which defendants entered, and cut trees, &c.

Third count: trover, for trees and timber.

Fourth: money counts.

Pleas.—Not guilty: a denial that any of the lands mentioned were the lands of the plaintiffs or that any of the timber trees were the timber trees of the plaintiffs; that the goods in the third count were not the plaintiffs; and never indebted to the fourth count. Issue.

The case was tried at Peterborough, in April, 1867, before John Wilson, J.

There were two questions raised. First, whether the plaintiffs could maintain trespass for cutting and carrying away timber and trees growing upon Government allowances for roads, marked on the ground in the survey of the townships, assuming that these allowances had not been opened out and become travelled highways. Second, whether a person, who when this suit was brought was entitled by agreement with the plaintiffs to twenty-five per cent. of the amount which should be recovered by the plaintiffs for trespass on and cutting and taking logs and timber off such allowances for road, but who before the trial, by an instrument under seal, in consideration of five shillings, had released his right