

of tavern licenses in a township to one, reciting that the municipality had not the required population for more than one tavern license and it was expedient to limit the license list to that number. There were two existing licenses in the municipality. The bona fides of the council in making this reduction was not in question and the evidence indicated that one hotel was sufficient for the requirements of the public in the municipality.

*Held*, that, in view of s. 20 of the Liquor License Act and s. 330 of the Municipal Act no township council can pass a by-law to provide that the number of licenses should be limited to one, and in this case the result of the by-law would be to create a monopoly. By-law quashed.

*Haverson*, for applicant. *A. Mills*, for respondent.

Meredith, C.J.C.P., Teetzel, J., Sutherland, J.] [July 27.

FORD v. CANADIAN EXPRESS CO.

*Malicious prosecution—Separate prosecution for forgery and theft—Reasonable and probable cause—Question for judge and not for jury.*

The plaintiff was formerly in the employ of White & Co., commission merchants. White & Co. obtained blank books of money orders from the Canadian Express Co. and the Dominion Express Company, and acted as agents for these companies for the purposes of their business only. A telephone message was received by the agent of the Canadian Express Co. asking that a book of money orders be sent to White & Co. The agent (named Mitchell) requested that an order for the same should be sent to them and on its receipt the book of money orders would be delivered forthwith. Shortly afterwards a man called at the Canadian Express office and handed in an order for the money orders written on White & Co. letter heads and signed White and Co. per Cohen. He received a book of money orders and signed a receipt for same. When the defendants went to White & Co. to collect for the book of money orders they first became aware that these orders had never reached White & Co. nor had they telephoned for them. Mitchell then wired the head office in Montreal to know if any of the orders had been cashed and asked them to forward any of the orders. On receiving the money orders Mitchell went to White & Co. and suspicion first fell on a former employee, then on the plaintiff, and two of the