

of manufacture thereof is distant more than two miles from the limits of the said town; nor to any person or persons passing through the town with vehicles loaded with the articles aforesaid, or any of them.

These exceptions discriminate as against residents of the municipality in favour, in one case, of persons bringing in lumber or goods from a mill or manufactory distant more than two miles from the limits of the town, and in the other in favour of persons passing through the town with vehicles loaded with any of the articles mentioned in the by-law; in other words, the by-law confers a particular privilege on such persons and exempts them from its operation. One man, being just outside the limits, may pass through the town to another place also just outside the limits, with a load of any weight and in a vehicle of any description; while another man, whose business does not require him to travel beyond the limits, may be fined for contravention of the by-law. One man, whose manufactory is within the town limits, or within the two mile radius, is subject to its provisions; while another, who lives beyond that radius, is not. A by-law so unequal in its applications is *ultra vires* of the corporation. They had no more power, in my opinion, to create such exceptions as I have referred to than they would have had to confine the operation of the by-law to a particular ward.

The case of *Jonas v. Gilbert*, reported in vol 5. Supreme Court Rep., p. 356, cited by Mr. Rose, is very much in point. A by-law of the city of St. John, passed under the authority of an Act which empowered the corporation to require a license to be taken out by persons carrying on any business, trade, or profession in that city, discriminated between residents and non-residents as to the amount payable for the license fee. The Court held the by-law invalid on that ground. The by-law before me is invalid on the same principle, and the conviction founded upon it cannot stand. See also *Re Nash and McCracken*, 33 U. C. R. 181; *Regina v. Johnston*, 38 U. C. R. 549.

The conviction is also bad on two other grounds: (1)