entitled to do so if he complies with the law as it is to-day as to building, and the building by-law must not be used as a means of delaying him until the council considers a question which arises under an independent section.

The council has power to pass by-laws binding on all those who are subject to its jurisdiction, but an attempt to regulate the conduct of any individual rather than to pass a general by-law is bad. The situation indicates that the council does not really intend to pass a law setting apart a residential district, but to prohibit this factory because the particular industry may prove to be a nuisance to the owner of the adjoining premises.

The mandatory sought should be granted, and costs should be awarded against both defendants.

The validity of the city by-law being attacked, the city corporation was a proper party; and, as the civic officer was acting in obedience to the by-law, the city corporation ought to bear the costs.

MEREDITH, C.J.C.P., IN CHAMBERS.   SEPTEMBER 29TH, 1920.

REX v. NEALON.

Ontario Temperance Act—Magistrate's Conviction for Offence against sec. 41—Having Intoxicating Liquor in Place other than Private Dwelling House—Evidence—Liquor Found by Constable in Lane—Failure to Shew that Defendant "Had" it.

Motion to quash the conviction of the defendant, by the Police Magistrate for the City of St. Thomas, for having intoxicating liquor in a place other than his (the defendant's) private dwelling house, contrary to the provisions of the Ontario Temperance Act, 6 Geo. V. ch. 50, sec. 41.

J. B. Davidson, for the defendant.
F. P. Brennan, for the magistrate.

MEREDITH, C.J.C.P., in a written judgment, said that it might be a good guess that the defendant was in the alley in which he was arrested for the purpose of getting the "Old Crow whisky," in the "handbag," which were produced at the trial before the Police Magistrate, and of getting it under some arrangement, with some one interested in the ownership of it, that he (the defendant) should get it at the place where it was found; but