

Reading the evidence fairly, the action of the defendant was simply this: he was about to order some ale for himself from brewers in Brockville, and two of his friends asked him also to order some for them at the same time. They gave him the money to pay for the ale at the same price he was paying for himself—and this money was transferred by him through postal order to the Brockville brewers, who forwarded the ale, which was delivered to the two friends and the defendant in due course. The only purchase or sale of ale was with the Brockville dealers, and the importation of ale into the township of Mountain was an innocuous act so far as the infringement of the Liquor License Act is concerned.

The conviction cannot be supported on the evidence, and should be quashed.

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RIDDELL, J.

SEPTEMBER 28TH, 1909.

RE HODGINS AND CITY OF TORONTO.

*Municipal Corporations—Local Improvements—By-law Assessing Rates on Land Fronting on Street for Payment for New Pavement—Notice to Owner—Defect—No Time Mentioned—By-law Quashed pro Tanto.*

Application to quash pro tanto by-law No. 5056 of the city of Toronto, so far as it assessed and levied upon certain property in Bloor street rates to be applied in paying off certain debentures issued to pay for asphaltting that street.

T. Hodgins, K.C., the applicant, in person.

W. C. Chisholm, K.C., for the city corporation.

RIDDELL, J.:—This is called a local improvement; and it is now the law that a municipality may in certain instances compel owners of property on the side of a public street to pay for the asphaltting of the street, upon the theory that they are the persons benefited thereby. While it is notorious that many such owners contend that they are not in the least benefited, or not more than the rest of the community, and that they are therefore made to pay for the advantage of the general public, the Court has no concern with the propriety or advisability of the legislation, but must take the law as the Court finds it.

But, as this is a very special kind of levy, for the benefit of the people indeed, but to the detriment of the private individual, and justified only by statutory authority, care must be taken to see that