

**XLVI. Sale of Spirituous Liquors in Taverns. By-Law to limit the number of Taverns to one, held unreasonable. By-Law under 16 Vic. ch. 184 requires the assent of a majority of the Electors. 13 & 14 Vic. ch. 65, sec. 4; 16 Vic. ch. 184, sec. 4.**

The Municipality of the Township of Darlington passed a by-law enacting:—

1. That the number of taverns which should receive license to sell wines and spirituous liquors in the municipality should not exceed one.

II. That the sum to be paid by any person who should obtain a license to keep such tavern should be £10 annually, above the duty imposed by the Imperial or Provincial Statute for such license.

IV. That the person receiving such license should be subject to the following regulations, amongst others:

2. That no innkeeper shall sell or permit the drinking of any intoxicating liquors on the Sabbath Day, except in case of sickness, or to travellers.

4. That no innkeeper shall sell intoxicating drink to any apprentice or minor, without the permission of his legal protector; nor shall he sell to any habitual drunkard, after being forbidden so to do by any relative or friend of such drunkard.

6. That no innkeeper shall be allowed to sell, give, loan, barter, or dispose of in any way, any intoxicating liquors after the hour of ten o'clock at night, or before five in the morning, travellers excepted.

By a subsequent by-law the fee to be paid for the license was increased to £25.

It appeared by the affidavits, that a by-law to prohibit absolutely the sale of spirituous liquors, &c., had been submitted to the electors, but not passed, as a sufficient number did not attend the meeting; that this by-law had not been so submitted; and that the township of Darlington contained a population of six thousand.

**Held**, That the first enactment was bad, as amounting in effect to a total prohibition, and being therefore an attempt to evade the provisions of 16 Vic. ch. 184, sec. 4, by which no such by-law can be passed without the consent of a majority of the electors:

That the second enactment was also bad, being inseparably connected with the first.

That the second, fourth, and sixth regulations, were beyond the jurisdiction of the municipality to impose.

**Held**, also, That the second by-law was bad, as the fee imposed exceeded £10, and no reference had been made to the electors.

In re. Barclay and The Municipality of the Township of Darlington. 12 U. C. B. R. Rep. 86.

**XLVII. By-Law to prohibit absolutely the sale of Intoxicating Liquors, &c.—Approval of Electors. 16 Vic. ch. 184, sec. 4.**

By-Laws for prohibiting the sale of spirituous liquors, &c., which, under 16 Vic. ch. 184, sec. 4, require to be submitted to the electors, must be adopted and approved of by a majority of all the qualified municipal electors of the municipality, not merely by a majority of those who may attend at the meeting called to consider such by-law. Where the by-law which provided for calling such meeting assumed the approval of the majority of the voters present would be sufficient:—

**Held**, That it was nevertheless proper to move against the then proposed by-law, after it had been passed on such approval, and not against that which laid down the improper course of proceeding.

In re. McAvoy & The Municipality of Sarnia. 12 U. C. B. R. Rep. 99, and 1 U. C. L. J. 106.

**XLVIII. By-Law—Tavern Licenses.—Sale of Spirituous Liquors—Imprisonment on failure to pay fine. 13 & 14 Vic. c. 65; 16 Vic. ch. 184.**

The Municipality of Otonabee passed a by-law on the 25th of March, 1854, enacting:

1. That there should be a license issued for one inn only where spirituous liquors should be sold, and that such inn should be in Peterborough East.

2. That persons applying for a license to keep such inn should produce a certificate from four municipal electors, residing in the locality where such house was to be kept, of his honesty and good moral character, and a certificate from the township treasurer that he had deposited a bond with such treasurer, made in favor of the reeve and his successors, approved by the councillors of the ward in which such tavern should be situated, binding him in £50, with two sufficient sureties in £25 each, to abide by all the by-laws of the township council for the regulation of such houses.

4. That all tavern-keepers, obtaining licenses under this by-law, should shut up their bar and bar-room at 10 p.m., and keep it closed on Sunday, and should not give or sell liquors to any person in a state of intoxication.

6. That persons wilfully neglecting, refusing or failing to comply with the provisions of the preceding clauses of this by-law, or selling by retail without license, should be liable to a fine of £5, or failing to pay the same, to twenty days' imprisonment.

9. That there should be one shop license, and no more, granted within the said municipality; and that such license should be granted to one of the storekeepers in the village of Keeno.

The reeve of the township swore that the by-law was passed because 244 out of the 489 electors had expressed themselves in favor of limiting as much as possible the sale of spirituous liquors: and that, at the last election, three out of the five were returned on the understanding that they would support such a measure.

**Held**, That these facts could not affect the question: that the first and ninth sections of the by-law, and so much of the sixth as related to the imprisonment of offenders fined on failure to pay, must be quashed; and that the second and fourth sections were good.

In the matter of Greystock and The Municipality of Otonabee. 12 U. C. B. R. Rep. 453, and 1 U. C. L. J. 46.

**XLIX. Township of North Dumfries—Exemption from Debt for Guelph and Dundas Road. 14 & 15 Vic. ch. 5, sec. 8.**

By the 14 & 15 Vic. ch. 5, the county of Waterloo is made to consist of certain townships, including North Dumfries, which before formed part of the county of Halton. The 8th section provides that the townships named, in which North Dumfries is not included, shall be responsible for their share of the debt for building the Guelph and Dundas road. This debt had been incurred by the former district of Wellington, which embraced all the townships mentioned in sec. 8 except Dumfries.

**Held**, That the Municipal Council of Waterloo could not impose a rate on Dumfries to pay such debt, the omission of that township in the 14 & 15 Vic. shewing clearly that it was not intended to be liable.

In the matter of The Municipality of the Township of North Dumfries and The Municipal Council of the County of Waterloo. 12 U. C. B. R. Rep. 507.