

refusing to quash a conviction of defendant for a violation of the terms of a by-law of the town of Berlin respecting hawkers and pedlars.

W. Proudfoot, K.C., for defendant.

J. E. Jones, for the informant.

GARROW, J.A.:—The point mainly relied on by defendant is that the by-law has fixed so high a license fee (\$75) as to be prohibitive. I have read the evidence, and, while there is some evidence tending to support this objection, and that that was the intention of the town council in fixing so high a license fee, and assuming the objection to be a valid one, there is also evidence to the contrary. In these circumstances, the Divisional Court had, I think, no alternative upon this objection but to affirm the conviction.

The only other ground of importance was as to the construction and effect of the amendments to the original by-law, and as to these I am unable to see any error in the conclusion of the Divisional Court.

Application dismissed with costs.

CARTWRIGHT, MASTER..

NOVEMBER 6TH, 1906.

CHAMBERS.

CUMMINGS v. TOWN OF BERLIN.

Venue—Statement of Claim—Naming Place of Trial other than the Proper one under Rule 529 (b)—Irregularity—Waiver by Pleading—Motion to Change Venue under Rule 529 (d)—Time for making — Necessity for Defined Issues—Practice—Costs.

Motion by the defendant town corporation to change the venue from Toronto to Berlin.

J. E. Jones, for applicants.

G. B. Strathy, for plaintiff.

THE MASTER:—The facts of this case appear sufficiently from the judgment in *Re-Town of Berlin and Berlin and Waterloo Street R. W. Co.*, 8 O. W. R. 284.