

*Held*, that by their by-law the county had assumed the road as a county road, and there was no power in the statute authorizing them to limit the assumption in the manner proposed, and that, under the circumstances, the county could not set up the absence of a township by-law assenting to the assumption.

Secs. 533 and 566, s.s. 5 of R.S.O., c. 184, relied on by the county, were held not applicable to this case.

*Held*, also, that the county, under s. 531, s.s. 4, were bound to keep the road in repair, and were liable to plaintiff, but under s.s. 4 they were entitled to judgment over against the township.

*Lash*, Q.C., for plaintiff.

*Aylesworth* for defendant county of Essex.

*Meredith*, Q.C., for defendant township of Gosfield South.

Div'l Ct.]

REGINA v. DOWLING.

*Justice of the peace—Fraud on cheese factory—51 Vic., c. 32 (O.)—Offence outside of county—Jurisdiction of police magistrate—Certiorari—Ultra vires.*

The defendant was tried at Belleville before the police magistrate of the County of Hastings, and convicted for, amongst other things, supplying milk from which the cream or strippings had been taken or kept back. The factory was in Hastings, but the defendant resided, and the milk was supplied, in the counties of Lennox and Addington.

*Held*, that the police magistrate of Hastings had no jurisdiction to try the offence, and the conviction must be quashed.

*Held*, also, that the *certiorari* had not been taken away in such cases; but even if it had, the Court would not be justified in refusing to examine the evidence to see if the magistrate had jurisdiction.

*Shepley* for defendant.

*Burdett* and *C. J. Holman* contra.

Div'l Ct.]

OWEN SOUND STEAMSHIP CO. v. ONTARIO AND QUEBEC RAILWAY CO.

*Railway company—Agreement to pay minimum sum out of joint traffic rates—Ultra vires—Legislation legalising.*

By an agreement entered into between the plaintiffs and the T. G. & B. R'y Co., it was

agreed that there should be certain joint rates chargeable to passengers and freight by the steamship company and the railway company, to be divided in certain proportions, and, if it should be found that the proportion payable to the steamship company did not at the end of the season amount to the sum therein stipulated, then that the deficiency should be made good by a rebate from the share of the railway company; and on the other hand if the steamship company received more than the sum mentioned in the agreement the railway company were entitled to a share of the surplus. Subsequently an agreement was entered into whereby the T. G. & B. R'y Co. leased their lines to the O. & Q. R'y Co., the latter agreeing to assume the contract with the plaintiff. This agreement was ratified by Act of Parliament. The O. & Q. R'y Co. made a lease of their lines to the C.P.R. Co., which was confirmed by Act of Parliament, and by which Act the C.P.R. Co. were to assume all contracts of the T. G. & B. R'y Co., including the one with the plaintiff.

*Held*, that even if the agreement between the plaintiffs and the T. G. & B. R'y Co. were *ultra vires* the latter company, it was made valid by the subsequent legislation; but apart therefrom it was in no sense objectionable.

*D. E. Thomson* and *G. Bell* for plaintiffs.

*McCarthy*, Q.C., and *G. T. Blackstock* contra.

REGINA v. AUSTIN.

*Taverns and shops—Liquor License Act—Club incorporated under Benevolent Societies Act—Sale of liquors by.*

*Held*, that the meaning of sec. 53, sub-sec. 3, of the Liquor License Act is that where in a club or society incorporated under the Benevolent Societies Act, liquor is sold or supplied to members, but such sale or supplying is not the special or main object of the club, etc., but is merely an incident resulting from its principal object, as here a gun club, there is no violation of the License Act, but it is otherwise, if the sale or supplying the liquor is the main object of the incorporation.

The question, however, is for the decision of the magistrate on the evidence, and there being evidence here to support the finding of the magistrate that the sale of liquor was the special or main object of the club, with the intent to evade the Liquor License Act, the court re-