

BRITTON, J.

MARCH 12TH, 1909.

WEEKLY COURT.

RE HAMILTON POWDER CO. AND TOWNSHIP OF
GLOUCESTER.

Municipal Corporations—Township By law Licensing Erection of Magazine for Storing Gunpowder—Contract with Powder Company—Repeal of By-law—Mala Fides—Repudiation of Contract Acted upon by the Other Contracting Party—Expenditure of Money—Danger to Inhabitants of Township—Repealing By-law Quashed.

Application by the company to quash a by-law of the township.

D. H. McLean, Ottawa, for the applicants.

G. McLaurin, Ottawa, for the township corporation.

BRITTON, J.:—The by-law attacked is one passed by the township on 12th August, 1908, called by-law No. 11 of 1908, simply repealing by-law No. 8 of the same year.

On 5th June, 1899, the council of Gloucester passed a by-law called No. 8 of 1899, intituled a by-law relating to the manufacture, storage, and transportation of gunpowder, or any other explosive substance, also "licensing" the same. In passing this by-law, the council were exercising powers conferred by R. S. O. 1897 ch. 223, sec. 542, sub-sec. 17, and by 62 Vict. ch. 26, sec. 34, amending the former sec. 542 by adding thereto sub-secs. 17a, 17b, 17c, and 17d.

In the early part of 1908 the Hamilton Powder Company entered into negotiations with the township for a license or permission to erect within the municipality a magazine or storehouse for the storage of gunpowder and other explosives in quantities of more than 25 pounds, and for the transportation to and from that storehouse of the gunpowder and other explosives stored or to be stored. The parties came to terms, and the contract was regularly entered into. Any such contract on the part of the township would require authorisation by by-law, so by-law No. 8 of 1908 was on 6th July of that year duly passed. That by-law was the township's contract. The terms of it were accepted by the Hamilton Powder Company, and acted upon