

HIGH COURT DIVISION.

BOYD, C.

DECEMBER 21ST, 1915.

*REX v. GEDDES.

Municipal Corporations—Transient Traders By-law—Inapplicability to Farmer Selling his own Produce—Municipal Act, R.S.O. 1914 ch. 192, sec. 420, sub-secs. 6, 7—"Trader"—"Other Persons"—"Trading Persons"—"Goods, Wares, and Merchandise."

Case stated by the Police Magistrate for the Town of Cobalt, on the application of the prosecutor, after the dismissal by the magistrate of a charge laid against the defendant of offering for sale goods or merchandise in the said town, without having a transient trader's license, contrary to a transient traders' by-law of the town, passed pursuant to and following the wording of sec. 420, sub-secs. 6 and 7, of the Municipal Act, R.S.O. 1914 ch. 192.

The defendant was a farmer and fruit-grower at Grimsby, in the Province of Ontario, and the goods which he offered for sale, by an agent, in Cobalt, were apples grown by him at Grimsby. The apples were not hawked about, but were sold from a car on the railway track to all comers.

The question asked by the magistrate was, whether he was right, as a matter of law, in dismissing the case.

The case was heard in the Weekly Court at Toronto.

W. J. Tremear, for the prosecutor.

H. E. Rose, K.C., for the defendant.

THE CHANCELLOR said that the legislation in this Province as to the regulation of petty traders had been of uniform character from the earliest statute in 1816 (56 Geo. III. ch. 36) to its latest development in the Municipal Act, R.S.O. 1914 ch. 192, sec. 420, sub-secs. 6 and 7. Reference was made to the various statutes and to Attorney-General v. Tongue (1823), 12 Price 51, 60, 61; Attorney-General v. Woolhouse (1827), 1 Y. & J. 463; Manson v. Hope (1862), 2 B. & S. 498.

The enactments as to hawkers, pedlars, and transient traders, are in pari materia and should be so construed in considering the question involved in the case.