

Statutes of Ontario of 1887), section 495, which so far as is material is in the following words :—

"The council of any county, city, and town separated from the county for municipal purposes may pass by-laws for the following purposes :—

"For licensing, regulating, and governing hawkers or petty chapmen, and other persons carrying on petty trades, or who go from place to place or to other men's houses on foot or with any animal, bearing or drawing any goods, wares, or merchandise for sale, or in or with any boat, vessel, or other craft, or otherwise carrying goods, wares, or merchandise for sale, and for fixing the sum to be paid for a license for exercising such calling within the county, city, or town, and the time the license shall be in force :

"In case of counties for providing at the discretion of the council, either the treasurer or clerk of the county, or the clerk of any municipality within the county with licenses, in this and the previous subsection mentioned, for sale to parties applying for the same under such regulations as may be prescribed in such by-laws :

"Provided always that no such license shall be required for hawking, peddling or selling from any vehicle or other conveyance any goods, wares or merchandise, to any retail dealer, or for hawking or peddling any goods, wares or merchandise, the growth, produce or manufacture of this Province, not being liquors within the meaning of the law relating to taverns or tavern licenses, if the same are being hawked or peddled by the manufacturer or producer of such goods, wares or merchandise, or by his *bona fide* servants or employees having written authority in that behalf ; and such servant or employee shall produce and exhibit his written authority when required so to do by any municipal or peace officer."

"(a) The word 'hawkers' in this subsection shall include all persons who, being agents for persons not resident within the county, sell or offer for sale tea, dry goods, or jewellery, or carry and expose samples or patterns of any of such goods to be afterwards delivered within the county to any person not being a wholesale or retail dealer in such goods, wares or merchandise."

Reference was also made to section 503 of the same Act, which occurs under the rubric "Markets." This section empowers the council of every city, town, and incorporated village, subject to the restrictions and exceptions contained in the last preceding six sections, to pass by-laws for : 1. Establishing markets. 2. Regulating markets. 3. "Preventing or regulating the sale by retail in the public streets, or vacant lots adjacent thereto, of any meat, vegetables, grain, hay, fruit, beverages, smallware, and other articles offered for sale."

*E. Blake, Q.C.*, for the applicants.

*Du Vernet* (of the Ontario Bar) and *Horace Avery* for the respondent.

The judgment of the Lords of the Judicial Committee of the Privy Council was delivered by

Lord DAVEY : Their lordships are not required to construe this section, or to say whether the words "adjacent thereto" do not refer to both public streets and vacant lots and mean adjacent to a market. Having regard to the previous sections under the same rubric, they think the clause is one for the protection of the market only, and of limited application.