

J. G. Stanbury, for the defendant.

W. Proudfoot, K.C., for Albert Whiteside, the informant.

KELLY, J.:—An application to quash a conviction for peddling and selling goods in the county of Huron, contrary to a by-law of that county.

The only evidence taken on the investigation before the magistrate was that of the defendant, who admitted that, being a non-resident of the county of Huron, he did on the 5th August, 1913, go from place to place on the boundary road between the township of Tuckersmith (in the county of Huron) and the township of Hibbert (in the county of Perth) with a team of horses and a waggon drawing goods, etc., and that he did then on that boundary road sell goods, etc., and that he did not then hold a license from the County of Huron as required by the by-law of that county relating to the licensing and regulation of hawkers, pedlars, etc.

Under the authority of sub-sec. 14 of sec. 583 of the Consolidated Municipal Act, 1903 (3 Edw. VII. ch. 19), the Municipal Council of the County of Huron, in 1906, passed a by-law (which was amended in 1913) requiring all hawkers, pedlars, and petty chapmen, and other persons carrying on petty trades within the county, to procure, in the manner therein provided, a license before exercising such occupation or calling.

The statute R.S.O. 1897 ch. 3, sec. 16, sets forth that the county of Huron shall consist of the townships, towns, and villages therein enumerated.

The defendant's contention is, that the boundary road on which he sold the goods is not within the county of Huron, and that, therefore, he did not offend against the by-law.

There is nothing in the Municipal Act, as it stood prior to the passing of the Act of 1913 (to which reference is made below), expressly or by inference making a boundary road such as this a part of the county, or which would have the effect of extending the operations of the by-law over it. It, therefore, becomes necessary to consider the effect of the Municipal Act of 1913, 3 & 4 Geo. V. ch. 43. By sec. 433 of that Act it is enacted, that, unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this Act; and sec. 439 declares that the councils of the local municipalities between which they run shall have