

BOYD, C.:—Re Wilson and Town of Ingersoll, 25 O. R. 439, cited to shew that this by-law is bad because it does not shew for what year it was to be applicable, has not been favourably commented on in later decisions: see per Osler, J.A., in Dwyre v. Ottawa, 25 A. R. 121, at p. 128; Re Kelly and Town of Toronto Junction, 8 O. L. R. 167; and Re Dewar and Township of East Williams, 10 O. L. R. 467. I do not think it is binding upon me, so that I could hold this by-law to be ineffective because of indefiniteness as to its time of operation.

This by-law was passed on the 11th January, 1909, and enacted "that the number of licenses for the sale of spirituous liquors be limited to three." I take it that its plain and obvious meaning is that that restriction should begin to operate for the next license year, beginning on the 1st May ensuing—and so on until it was altered or repealed.

The by-law previously in force, passed on the 3rd February, 1890, restricted the issue of tavern licenses to seven for the township, and it continued in force till superseded by the by-law now attacked. I think the opinion given by the chief officer of the license department at Toronto is correct, in which it is said: "It is not absolutely necessary to repeal the previous by-law in terms, but, if a subsequent by-law is passed which is inconsistent with the former by-law, it will have the effect of repealing the former."

The by-law speaks from its promulgation, and applies to the coming license year for which the municipalities have power to prescribe limitations; and these limitations will continue into future years unless its operation is confined by the language used: Re Brewer and City of Toronto, 19 O. L. R. 411.

The most formidable objection is that it is vague because it does not specify that it applies to taverns only or to taverns in particular. As it stands, it is warranted by sec. 20 of the Liquor License Act, R. S. O. 1897 ch. 245: but it is said it may be enacted under sec. 32, which applies to shop licenses. The answer is, on the facts as proved at the trial, that there are no other licenses relating to spirituous liquors in the township except tavern licenses. This state of facts the corporation and the ratepayers were cognizant of, and so no one interested could mistake the scope and operation of the by-law. The maxim *id certum est* may be invoked to overcome this objection.

No other points were discussed, and as against these—even though the applicant had moved promptly—the by-law should be supported.

Action dismissed with costs.