

The Consol. Stat. U. C. ch. 58, enables the councils of towns to appoint an inspector of weights and measures, who is to test, and, if correct, to stamp the same. That act assumes (sec. 16.) that "every storekeeper, shopkeeper, miller, di-tiller, butcher, baker, huckster, or other trading person, and every wharfinger or forwarder," will be furnished with weights and measure; for while the Statute enables all such weight and measures to be stamped, if required to be so by the owner, and enables the inspector (sec. 17) to "enter any shop, store, warehouse, stall, yard, or place where any commodity is bought, sold, or exchanged, weighed, exposed, or kept for sale, or weighed for conveyance or carriage," to examine the same, and (sec. 18) to forfeit them if "not stamped, or if they are light or unjust," and subjects persons having incorrect weighing machines in their possession, or who refuse to produce their weighing machines for examination, or who obstruct the inspector in his duty, to penalties; it contains no provision making it obligatory on any of these persons to have weights or measures at all.

It is impossible, however, for such persons to be without weights and measures, "where," in the language of the Statute, "any commodity is bought, sold, or exchanged, weighed, exposed, or weighed for conveyance or carriage," so that it is no great stretch of authority to say that persons selling meat or articles of provisions by retail, by weight, count, or measure, shall have such weights and measures, when the council has authority to regulate the sale of so many articles, and the weighing or measuring (as the case may be) of grain, meat, vegetables, fish, hay, straw, fodder, wood, and lumber, lime, shingles, laths, cordwood, coal, and other fuel, farm produce of every description, small ware, and all other articles exposed for sale, and to impose penalties for light weight, or short count, or short measurement in anything marketed.

We do not think this an enactment in excess of the powers of the council. Nor is there any reason to say that the prohibition of the use of spring balances, &c., is beyond their power either.

It is well known that these springs become affected by use, and by the change in temperature, so as not to remain true; and while nothing is alleged against the reasonableness of this exclusion, we should not look for difficulties to raise against the by-law.

That clause is not interfered with.

The fifth section has been impeached on two grounds: firstly, because it leaves in the discretion of the convicting magistrate to impose a fine varying from \$1 to \$20, and imprisonment from two to twenty days, while it is said the sum and the time should have been absolutely fixed by the council; and, secondly, because the fines are to "be applied to the use of the municipality," thus excluding the informer from his moiety under the Act of 1866, sec. 211.

The first of these objections is not tenable, for the Act of 1866, sec. 209, enables the magistrate to "award the whole or such part of the penalty or punishment imposed by the by-law as he shall think fit," a provision no doubt made in consequence of the opinion expressed in *Fennell and The Corporation of Guelph*, 24 U. C. Q. B. 238.

Even if the law had not been altered, we should

have declined, as the court did in that case, to interfere with the by-law on that ground.

As to the second objection to these clauses, we think it must prevail. The moiety of the informer's share of the penalty should be preserved to him. Under the by-law as it stands, he gets no share; and it may damp the energies of a class of people who are supposed by the Legislature to be necessary, and to good service, if the reward which stimulates them to action is taken away. That part of the fifth section must be quashed.

There remain now the 1st and 3rd sections to be considered. [The learned Judge here read the first section, dividing it into paragraphs (a), (b), (c) and (d), as at page 83, which was not done in the original.]

This long section is somewhat in the form of Acts of Parliament as they used to be drawn, having all the materials accumulated into one clause, while it consists of different cases, and each case is to have a different legal action on it.

Coude, in his very valuable work on "Legislative Expression," p. 42, says: "There can be no doubt that the more strictly each clause is limited to one class of cases, one class of legal subjects, and one class of legal actions, the better."

The first and second divisions of the section are substantially the same, the second being the complement of the first; and the question is, has the Council the power to enact that only butchers and persons occupying stalls in the market, and those having the licensed shops or stalls in Baldwin or Coleman wards, shall sell or expose for sale in the municipality fresh meat in a less quantity than by the quarter?

2. The next question is, has the Council the power to restrict the privileged persons in the previous part of the section from selling or exposing for sale fresh meat except by the quarter in any other part of the municipality than in their said stalls or shops?

And thirdly, has the council the power to prevent butchers and others from cutting up, exposing for sale, or selling fresh meat in any other part of the municipality, than in the stalls in the market, or in such other places as the committee may appoint, not less than 400 yards from the market, and within certain specified limits?

As to the first question, we think, as the council has full power to regulate the *place* of selling butchers' meat, they may restrict it to the public market and to the shops or stalls provided for the purpose beyond the market. That has been expressly settled by the Court in *Kelly and The Corporation of Toronto*, 23 U. C. Q. B. 425, and re-affirmed in *Fennell and the Corporation of Guelph*, 24 U. C. Q. B. 238.

As the council may require the sale of all butchers' meat to be at such places, there can be no harm in allowing it when it is by the quarter to be sold anywhere else.

This by-law is, in effect, a declaration that butchers' meat, less than the quarter, shall not be sold elsewhere in the municipality than at the market and specified stalls, and to that extent it is clearly maintainable.

The second question is answered by what has been said as to the first. The council has undoubtedly the power to say that those who are