

language of a statute might be, it was entitled to a liberal construction; and, so regarding it, the city council was authorised to pass a by-law providing for the erection and maintenance of weighing machines in convenient places within the city limits and to charge fees for the use of the machines.

Those sections of by-law 3358 which provided for the establishment of weighing machines at certain places in the city must, therefore, be regarded as valid.

No express power to lease was given when power was conferred to erect and maintain weighhouses, nor was the appointment of weighmasters authorised. But the greater power included the lesser. It was obvious, too, that the scales could not be maintained and fees collected for their use without employing persons to do the weighing and collect or record the fees.

The operation of the weighing machines in the weighhouses at the Broad street and Arlington avenue yards of the company was carried on by the city corporation at the instance of the company and for the company's benefit. The scales were on property owned by the company and leased by the company to the city corporation. Rentals to the 31st December, 1917, had been paid and accepted, and the leases had not been determined.

In the second action a claim was made that the leases should be declared invalid and the city corporation be ordered to vacate the leased properties. As the power to lease existed, the company, even if not estopped by their own acts, were not entitled to the possession of the weighhouses and scales at Broad street and Arlington avenue.

The company were entitled in their first action to a judgment declaring that, upon the true construction of by-law 3358, it was not compulsory on persons delivering coal in the city from a vehicle to have the coal weighed in all cases upon a weighing machine of the city corporation, but only in cases where the buyer or seller required that it should be so weighed. The company should have their costs of the first action up to and inclusive of the statement of defence and subsequent costs as of a motion for judgment—they could have moved for judgment after the decision in *Rex v. Butterworth*, *supra*.

The company's second action failed and should be dismissed. In view, however, of the invidious, though not illegal, treatment of the company in connection with the payment of a weighmaster at the St. Lawrence and Ottawa Railway Station, the dismissal should be without costs.

In the two actions brought by the city corporation, they were entitled to recover the amounts claimed, and there should be judgment against the company for \$1,189.60, with costs of both actions up to and inclusive of the costs of the order consolidating them, and with subsequent costs as of one action.