

APRIL 19TH, 1906.

DIVISIONAL COURT.

REX v. WOOLLATT.

*Municipal Corporations—By-law—Market Regulations—Sale of Fuel—Weighing—Market Fee—Municipal Act, sec. 580, sub-sec. 9—Scope of—Transaction within Limits of Municipality.*

Motion to make absolute a rule nisi to quash the conviction of defendant by the police magistrate for the city of Windsor, for selling and delivering a ton of coal without having weighed it on the market scales, and without having paid the fee for weighing, contrary to a by-law of the city of Windsor, upon the ground that the by-law was ultra vires.

W. H. Blake, K.C., for defendant.

W. M. Douglas, K.C., for the informant.

The judgment of the Court (MEREDITH, C.J., TEETZEL, J., CLUTE, J.), was delivered by

MEREDITH, C.J.:—We think, notwithstanding the ingenious argument of Mr. Douglas, that this is a reasonably plain case. It is impossible to believe that the provisions of sub-sec. 9 of sec. 580 of the Municipal Act should be given effect to according to their literal meaning. In the course of the argument illustrations have been given of the absurd consequences which would flow from any such interpretation. It is manifest, therefore, that one must seek to ascertain how these general words are to be limited and restricted, so to give effect to the intention of the legislation, and it seems to me that a reasonably safe guide may be found by looking at the sections with which the section is associated, to see what it was the legislature was dealing with in the group of sections of which sub-sec. 9 forms part.

The legislature had in view markets. The municipalities had been authorized to establish markets and had been given large powers as to imposing fees and requiring certain classes of articles which were brought to the municipality to be sold, to be sold at the public market and not elsewhere.