

days, which fines should be applied to the uses of the municipality. *Held*, that leaving the fine in the magistrate's discretion was clearly authorized by sec. 209; but that it was invalid for not awarding a moiety of the fine to the informer, under sec. 211.

Held also, that market regulations made by the council might be quashed as orders or resolutions, under sec. 198.

By these regulations it was provided that any person wishing to sell fresh meat in quantities less than a quarter in a shop or stall in either of the two wards above mentioned, should apply to the market committee, stating the annual sum above \$40 which he was willing to pay for a certificate authorizing him to sell for a year. *Held*, bad, both by the general law, and as opposed to sec. 229 of the Act of 1866. It was also provided that persons obtaining certificates should give a bond with sureties to obey the by-laws relative to the sale of fresh meat at stalls and shops where it was sold. *Held*, good, for that it applied of course only to valid by-laws.

[30 U. C. Q. B., 81.]

In Hilary Term last, *Harrison, Q. C.*, obtained a rule calling on the town of Belleville to shew cause, on the first day of Easter Term following—

1. Why the first clause of by-law No. 217 should not be quashed, with costs, for illegality—the same being in excess of the powers of the corporation, or unreasonable, or otherwise illegal.

2. The second clause of the same by-law was moved against; but this it appeared had been repealed on the 17th February, unknown to the applicant, before the rule *nisi* was moved.

3. Why the third clause of the same by-law should not be quashed, with costs, for illegality—the same assuming to restrain the sale of the articles therein first enumerated unless a certain fee be paid, thus in effect levying a tax on all such sales made within the town, and prohibiting all persons before the hour of twelve o'clock noon from purchasing or selling butchers' meat, fish, hay, or straw, except at the public market places, and in the stalls or shops in Coleman ward and Baldwin ward, and prohibiting hucksters or runners, before the hour of ten o'clock in the forenoon, within the municipality, or within one mile of the outer limits thereof, from purchasing meats, fish, or fruits, brought to the public market; or.

4. Why the fourth clause of the same by-law should not be quashed, with costs, for illegality—the same making it obligatory upon every person selling meat, or any articles of provision by retail, whether by weight, count, or measure, in the town, to provide himself with scales, weights and measures for the town, and providing that no spring balance, spring scales, spring steelyards, or spring weighing machine, shall be used or allowed to be used for any market purpose; or.

5. Why the fifth clause of the same by-law should not be quashed, with costs, for illegality, in this, that the by-law does not itself fix and determine the punishment, but delegates the same to be fixed and determined within certain limits by the discretion of the convicting Justice; and because it provides in general terms that all fines shall be applied to the uses of the municipality, and no moiety thereof in any case to go to the informer or prosecutor;—and on grounds disclosed in affidavits and papers filed.

And why the regulations for the government of the market and meat stalls of the town should not be quashed, with costs, for illegality, the same providing for and making it necessary to have certificates or licenses for the sale of fresh meat, and the giving of bonds conditioned to abide by all the regulations and by-laws of the

municipality in force at the time of entering into the bonds, and all by-laws and regulations which may thereafter be passed relative to stalls and shops, whether the same be legal or illegal, or valid or invalid, and being calculated to deter persons giving such bonds from moving against illegal or invalid by-laws or regulations; and on grounds disclosed in affidavits and papers filed.

The by-law was passed on the 14th February, 1870, and the provisions complained of were as follows:—

"1. (a) That only butchers or persons occupying shops or stalls in the public markets, or in Coleman ward or Baldwin ward, for the sale of fresh meat as hereinafter provided, shall sell, or expose for sale, any fresh meat in any less quantity than by the quarter. (b) And butchers having stalls in the public market, and all persons occupying said stalls or shops in Coleman ward or Baldwin ward, for the sale of fresh meat, may sell fresh meat in any less quantity than by the quarter. (c) And butchers and all persons occupying said shops or stalls for the sale of fresh meat in Coleman ward or Baldwin ward, shall not expose fresh meat for sale or sell fresh meat in any other place in Belleville than in the market stalls and said stalls or shops in Coleman ward or Baldwin ward, except by the quarter. (d) And that no butcher or other person shall out up or expose for sale, or sell any fresh meat in any part of Belleville, except in the stalls in the public market, or at such other places as the standing committee on public markets may appoint, not less than four hundred yards from the public market, and within the following limits in Baldwin ward and Coleman ward, &c., [setting out the limits.]

2. (1) That no person shall buy, sell, or offer for sale, any game, fish, poultry, eggs, butter, cheese, grain, vegetables, or fruits, exposed for sale or marketed within the town of Belleville, until the seller has paid the market fees required by By-law No. 161, or has obtained a ticket from the collector of tolls of the market of the town of Belleville, as provided for in the 27th section of by-law No. 161, and before the hour of nine o'clock in the forenoon, during the months of June, July, and August, and ten o'clock during the rest of the year. (2) No person shall forestall, regrate, or monopolize any market grain, meats, fish, fruits, roots, vegetables, poultry, and dairy products, within the town of Belleville. (3) Provided always, that before the hour of twelve o'clock, noon, no butcher's meat, fish, hay or straw, shall be bought or sold by any person in any part of the town, except at the public market place, and in the said stalls or shops in Coleman ward and Baldwin ward, as hereinbefore mentioned; (4) and further, that before the hour of ten o'clock in the forenoon, no huckster or runner within the municipality, or within one mile of the outer limits thereof, shall purchase any meats, fish, or fruits, brought to the public market.

4. That every person selling meat or articles of provision by retail, whether by weight, count, or measure in the town of Belleville, shall provide himself with scales, weights, and measures for the said town; but no spring balance, spring scale, spring steelyards, or spring weighing machine, shall be used or allowed to be used for any market purpose.