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ld Play- Repair— *ages.*—A for dam- its negli- ying upon here is no this lia- and no local playing on hen their cial to the street for

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parent for d through cessary to advantage eased, it is vidence to that there etation of the future ated.

s, J.A., in reet R.W.

Co., 27 A. R., at p. 44 note, fol- lowed. *Ricketts v. Village of Markdale*, 610.

5. *Arbitration as to Lands Injurious Affected—Costs—Discretion*—R.S.O. ch. 223, ss. 437, 448, 460.]—The power given by the Municipal Act, R.S.O. ch. 223, s. 460, to arbit- rators under that Act "to award the payment by any of the parties to the other of the costs of the arbitration, or of any portion thereof," should receive the same construction as Con- solidated Rule 1180; the dis- cretion given is a legal discretion, and subject to the rule that when the claimant has been guilty of no misconduct, omis- sion or neglect such as to induce the Court to deprive him of his costs, the unsuccessful party should bear the whole costs of the litigation. *In re Pattullo and the Corporation of the Town of Orangeville*, 192.

6. *By-law—Regulation of Hawkers*—R.S.O. ch. 223, s. 583, s.s. 14—*Proviso—Negating Exception—Conviction—Quashing—Costs.*]—A by-law of a county council recited the provisions of s.s. 14 of s. 583 of the Municipal Act, R.S.O. ch. 223, and that it was expedient to enact a by-law for the purpose mentioned in the sub-section; it then went on to enact "that no person shall exercise the calling of a hawker, peddler or petty

chapman in the county without a license obtained as in this by- law provided;" but the by-law contained no such exception as is mentioned in the proviso to s.s. 14, in favour of the manu- facturer or producer and his servants:—

Held, that the by-law was *ultra vires* the council, and a conviction under it was bad.

Held, also, following *Regina v. McFarlane* (1897), 17 C.L.T. Occ. N. 29, that the conviction was bad because it did not nega- tive the exception contained in the proviso, and there was no power to amend it, because the evidence did not shew whether or not the defendant's acts came within it.

The conviction was therefore quashed, but costs were not given against the informant. *Regina v. Smith*, 224.

7. *Local Improvements—Block Pavements—Liability to Repair—Reconstruction*—R.S. O. ch. 223, s. 666—62 Vict., sess. 2, ch. 26, s. 41.]—A city corpora- tion having, by by-law passed in 1888, adopted the local im- provement system, a cedar block pavement was constructed as a local improvement in 1891, its "lifetime," as stated by the by- law for levying the assessments therefor, being ten years.

Sections 664 and 665 of the Municipal Act, R.S.O. ch. 223, authorize the passing of by-laws providing for the construction