

the assessment roll, offered his goods for sale without having paid the license fee in that behalf imposed by by-law No. 98 of the village of Stouffville. That by-law was passed in the year 1891, pursuant to the provisions of the Municipal Amendment Act of 1888 (51 Vict. ch. 28, sec. 23), empowering the municipality to fix a license fee to be paid by such transient traders before commencing to trade. That law of 1888 is practically carried into the existing municipal law, as found in R. S. O. ch. 223, sec. 583, clauses 31 and 33; and the by-law of 1891 is well founded thereon. The objections made as to the non-appearance therein of the words "for temporary purposes" and "assessment roll of the then municipal year," are not pertinent, as they relate to the regulation of transient traders under clause 30 of sec. 583. This is under the clause which relates to the payment of a license fee before beginning operations. It does not appear needful to refer to or negative the provision of a later section, 1895, 58 Vict. ch. 92, sec. 22, which gives an extensive meaning to the words "transient trader," and makes the term applicable to one who has resided less than three months in the municipality before beginning business. The evidence in the present case shews a residence less than three months, and in fact but brief visits periodically and regularly to sell meat for a given time at a particular place in the village.

On the broad merits, therefore, the conviction is good.

The objection that the penalty of \$100 was not apportioned under sec. 708 fails, because the application is otherwise provided for by the by-law on which the conviction proceeds.

The objection that the conviction and by-law are in excess of the statute because power of distress is given for both penalty and costs, and because of the commitment, in default of payment, to the common gaol, are not well taken. Power is given by sec. 702 (2) to pass by-laws for collecting penalties and costs by distress, and by sub-sec. (3) to punish by imprisonment after no distress or ineffective distress.

The objection as to the uncertainty of the offence in the conviction as to date, place, and meat sold may be amended from the facts in evidence, under the authority of 2 Edw. VII. ch. 12, sec. 15.

The large question is taken in the notice of motion, but was not pressed so much as the other points already dealt with, viz., that this defendant as "butcher" does not come within the province of the "transient traders" section at all; and that the proper section under which this case should be dealt with is sec. 580 or 581 of ch. 223.