

anticipation of an Act, 45 Vic. ch. 24 (O.), passed the 10th March, to go into operation the 2nd April then next ensuing.

Sub-section 2 of sec. 8 of the Act subjects "such vendors of articles in respect of which a market fee may be now imposed as shall voluntarily use the market place for the purpose of selling such articles," whereas the 12th section of the by-law in question was, "any person or persons who shall voluntarily come upon the said market place, &c., for the purpose of selling," &c.

*Held*, that "Vendors, who shall voluntarily use the market place for the purpose of selling," was not identical with or equivalent to "any person or persons who shall voluntarily come upon the said market place for the purpose of selling;" nor was the expression "use the market place for the purpose of selling" the same as "come upon the market place for the purpose of selling;" and that the conviction was bad on this ground also.

*Held*, also, that the conviction was bad, as differing from both statute and by-law, being for refusing to pay the fees on eight quarters of beef "exposed for sale," whereas the 13th section of the by-law applied only to cases of butcher's meat exposed for sale. *Regina v. Reed*, 242.

4. *Municipal corporations—Sewer connecting with creek—Fouling stream—Riparian proprietor.*—A drain of the defendants for carrying off the surface waters of a street ran along the street and across it, and then through private property until it reached a creek. On the street there was a screw factory, the proprietors of which, by defendants' permission, connected a drain from their works with the defendant's

drain, which had the effect of carrying noxious matter from the factory into the creek; but on complaint thereat, the proprietors used an old cellar as a reservoir for the noxious matter; but which, it was alleged, filtered through from the cellar into the drain and so into the creek. The drain, without the infiltration into it from the cellar from which it was twenty-six feet distant, conveyed nothing injurious into the creek. The plaintiff, a riparian proprietor on the creek, having a factory there, claimed that by reason of such fouling he was prevented from using the water of the creek for domestic purposes or for his factory, and brought this action against the defendants therefor.

*Held*, that defendants were not liable, but that the liability, if any, was on the screw factory.

*Van Egmond v. Corporation of Seaforth*, 6 O. R. 599, distinguished. *Gray v. The Corporation of the Town of Dundas*, 317.

5. *Municipal corporations—Private drain connecting with street drain—Obstruction in street drain—Flooding of cellar—Notice—Liability.*—The plaintiff's house was drained by a private drain into the street drain, which was near to but did not extend as far as his house. L., who also had a house drain connected with the street drain, put a grating across it near the connection with the private drain, which obstructed the street drain, and dammed back the water and sewage through plaintiff's private drain into his cellar and damaged the plaintiff's premises. The nature of the obstruction was known to the plaintiff but not to the defendants, and the plaintiff did not notify them thereof. There was no by-law compelling property-