

Com. Pleas.]

NOTES OF CANADIAN CASES.

[Com. Pleas

T. were called for the defence, and swore that J. L. had so stated to them. Dr. B. was then called by the Crown, and he swore that he had not operated on J. L. as stated.

Held, that the evidence of Dr. B. was admissible.

Held, also, that the omission of the learned judge at the trial to tell the jury that the evidence of an accomplice ought to be corroborated does not entitle the prisoner to have the conviction reversed; and in this case there was no necessity for the caution, as there was abundance of corroborative evidence.

Osler, Q.C., for the prisoner.

McMahon, Q.C., for the Crown.

Wilson, C.J.]

ADAMS V. CORPORATION OF THE CITY OF
TORONTO.

Municipal corporations—Necessarily raising sidewalk—Premises injuriously affected thereby—Arbitration—Compensation—Action.

Where the corporation of the city of Toronto, in the exercise of its corporate powers, necessarily raised the sidewalk in front of the plaintiff's premises, whereby, as was alleged, the plaintiff's premises were injuriously affected.

Held, on demurrer, that this was not the subject of an action, but for compensation under the arbitration clauses of the Consolidated Municipal Act, 1883.

C. Durand, for the plaintiff.

W. A. Foster, for the defendants

Wilson, C.J.]

IN RE O'MEARA AND CORPORATION OF
OTTAWA.

Municipal Act, 1883, s. 503, 497, ss. 4, 6—By-law—Sale of fresh meat less than by quarter carcass—Restrictions, etc.—Reasonable accommodation.

By section 503 of the Municipal Act, 1883, the council may, subject to the restrictions and exceptions contained in the six next preceding sections, pass by-laws as provided by the following sub-sections:—(1) For establishing markets; (2) for regulating markets, etc.;

(3) for preventing or regulating the sale by retail in the public streets or vacant lots, etc., of any meat, etc.; (4) for preventing or regulating the buying and selling of articles or animals exposed for sale or marketed; (5) for regulating the place and manner of selling and weighing grain, meat, etc., and all other articles exposed for sale and the fees to be paid therefor, etc.; (6) for granting annually, or oftener, licenses for the sale of fresh meat in quantities less than by the quarter carcass, and for regulating such sale, and fixing and regulating the places where such sale shall be allowed, and for imposing a license fee . . . and for preventing the sale of fresh meat in quantities less than by the quarter carcass, unless by a person holding a valid license, and in a place authorized by the council, etc. The restrictions and exceptions, so far as applicable, are those contained in sub-secs. 4 and 6 of sec. 497. Sub-sec. 4 applies to articles for sale brought into the municipality after 10 a.m., and upon which market fees are not to be imposed unless they are offered for sale on the market; and sub-sec. 6 applied to those persons who go to the market place before 9 a.m. between 1st April and 1st November, and 10 a.m. between 1st November and 1st April, with any article they may sell in the market place: and with regard to such persons that after these respective hours they shall not be compelled to remain on the market place, but may proceed to sell elsewhere on paying the market fees.

Held, that a by-law passed under sub-sec. 6, need not be made subject to such restrictions, etc., for the proper construction of the sections is that sec. 503 is made subject to such restrictions, so far as properly applicable, and that sub-sec. 6 is in the nature of an exception from these general restrictions, etc.

Seemle, that the court might quash a by-law of this description when plainly insufficient accommodation is furnished, unless in the alternative the municipality should provide reasonably fit and full accommodation; but, as a rule, the municipality is the judge of its own business and affairs, and it is probably an extreme case in which the court would interfere.

Clement, for the plaintiff.

MacLennan, Q.C., for the defendant.