

The judgment of the Court was delivered by

LANDRY, J.:—This was a motion to quash a conviction against Phileas A. Le Blanc, for having, on the 22nd day of January, at the city of Moncton, exposed for sale in his shop or place of business at the city of Moncton, a loaf of bread not having the initials of the name of the baker by whom it was manufactured stamped in plain and legible characters therein, and not having stamped therein the figure or figures denoting its weight, contrary to the provisions of a by-law of the city of Moncton in such case made and provided. The conviction was dated the 23rd day of February, A.D. 1909.

The grounds urged for the setting aside of the conviction were:—

1. The by-law was ultra vires of the city council.
2. The provincial legislature had no authority to authorize such a by-law, being against section 91, sub-section 2 (as to the regulation of trade and commerce) of the British North America Act.
3. The word "bread" as used in the by-law does not apply to the loaf so exposed, such loaf being fancy bread.

Sub-section 5 of section 47 of the Acts of Assembly of 1890, chapter 60 (Consolidating Acts relating to the City of Moncton), gives the city council authority to make by-laws and regulations regulating the size of bread. The council passed a by-law, requiring, among other matters, that bread exposed for sale in the city of Moncton should have stamped therein the initials of the name of the baker by whom the bread was manufactured, and the figure or figures of the weight of the loaf. We have no doubt of the jurisdiction of the local legislature to give the authority to the city council to make such a regulation, nor have we the power of the council to act under that authority. The matter was one entirely of local application, regulating the sale of bread within the city of Moncton and quite subject to the power of the provincial legislature.

As to the nature of the loaf, the finding of that was with the magistrate who heard the evidence and who saw the loaf.

The order nisi to quash will be discharged.