

practised his calling as an auctioneer upon the said market and had there established an extensive business connection from which he derived his means of livelihood. (8) That by reason of the action of the defendants in so preventing the plaintiff from practising his calling as aforesaid he had been for the time being deprived of his means of livelihood, and otherwise sustained serious loss and damage.

And the plaintiff claimed: (1) For damages the sum of \$1,000; (2) A declaration that section 21 of by-law No. 1078 of the defendant corporation, as amended by by-law 1785, was *ultra vires* of the said corporation and of no legal effect; (3) An injunction restraining the defendants from interfering with the plaintiff in the practise of his calling as an auctioneer on the public markets of the city of Ottawa; (4) Such further and other relief as the nature of the case might require; (5) His costs of the action.

The defendants by their statement of defence said: (1) That the auctioneer's license granted to the plaintiff by the defendant corporation contained the following conditions, and was subject to the same, that is to say, "This license is subject to the laws of the Province of Ontario and such by-laws, rules and regulations of the corporation of the city of Ottawa as are now and which may hereafter be in force." (2) That the by-laws mentioned in the second and third paragraphs of the plaintiff's statement of claim were enacted by the defendant corporation under the authority of The Consolidated Municipal Act, 1892, sec. 503, for the regulation of their markets; and that the same were *intra vires* and valid and effective. (3) That the plaintiff's statement of claim disclosed no ground of action; and. (4) That the action should be dismissed with costs.

An interim injunction was applied for and obtained, which was subsequently continued until the trial.

The action was tried at the sittings of the Court at Ottawa on the 22nd April, 1898, by MacMAHON, J., without a jury.