

*Christopher Robinson, Q.C., and J. Bicknell, for the plaintiffs. J. M. Clark, and R. U. Macpherson, for defendants other than Seybold. L. G. McCarthy and Stewart, for defendant Seybold.*

Boyd, C., Ferguson, J.] QUEEN P. LANGLEY. [Dec. 2, 1899.  
*Municipal corporations—By-laws—Transient traders—Sale. Trading stamps—Conviction—R.S.O., c. 223, s. 583, sub-s. 30, 31.*

The defendant entered into an arrangement with various retail merchants by which each of them was to receive from him a quantity of "trading stamps" (the property in which, however, was to remain in him), and to pay him fifty cents per 100 of such stamps received, and to give one of these stamps to each customer who purchased for cash ten cents worth of goods, while he, on his part, was to advertise them in certain directories to be distributed by him and also in newspapers. A blank space was left in these directories for pasting in such stamps, and every customer of any of the merchants who brought to the defendant one of the directories with 990 stamps pasted in it was entitled to receive in exchange any one he might select of an assortment of goods kept in stock by the defendant. Apart from this these goods were not for sale.

*Held*, that these transactions did not constitute a selling or offering for sale by the defendant within the meaning of a municipal by-law, passed under R. S. O., c. 223, s. 583, sub-s. 30, 31, the stamps delivered to the defendant in exchange for his goods being of no value to him. The essence of sale is transfer of property from one person to another for money or money's worth.

*J. B. Clarke, Q.C., for defendant. Aylesworth, Q.C., for the prosecutor.*

Meredith, C.J., Rose, J.] STIRTON P. GEMMER. [Dec. 5, 1899.  
*Libel—Evidence—Admissibility—Previous writings—Provocation—Mitigation of damages—Meaning of words.*

In libel for two articles which were printed in the defendant's newspaper reflecting upon the character and conduct of the plaintiff;

*Held*, that an article in another newspaper, published before the first of the alleged libels, purporting to be an account of an interview with the plaintiff in which he made an attack upon the defendant's newspaper by its name, and a letter signed by the plaintiff, published in two newspapers before the second of the alleged libels, in which the defendant's newspaper and the editor thereof—not the defendant himself—were referred to in abusive language, were admissible in evidence upon the part of the defendant, in mitigation of damages. *Percy v. Glasgow*, 22 C.P. 521, followed.

*Held*, also, per ROSE, J., that editorial articles which appeared on the same day in the newspapers which published the plaintiff's letter, referring to it and to the defendant's newspaper, were admissible too, as furnishing provocation for the second of the alleged libels; MEREDITH, C.J., contra.