

ductor, there being upon the ticket no condition requiring its production, and no contract for its production having been entered into. That is not a refusal to pay his fare under 51 Vict., c. 29, s. 248 (D.).

Judgment of Queen's Bench Division, 22 O.R. 667, affirmed; OSLER, J.A., dissenting.

Osler, Q.C., for the appellants.

Du Vernet for the respondent.

From Q.B.D.]

ERDMAN v. TOWN OF WALKERTON.

[May 9.

*Evidence—Identity of issues—Examination de bene esse.*

Although the widow's right of action under Lord Campbell's Act is, in several respects, distinct from the husband's right of action in his lifetime, arising out of the same circumstances, still the issues are so far connected and identical that the examination *de bene esse* of the husband in his action is admissible evidence in the widow's action against the same defendants, the husband having been cross-examined by them.

Judgment of the Queen's Bench Division, 22 O.R. 693, affirmed.

Aylesworth, Q.C., and Hoyles, Q.C., for the appellants.

Shaw, Q.C., for the respondent.

From GALT, C.J.]

IN RE VIRGO AND TORONTO.

[May 9.

*Municipal corporations—By-law—Hawkers and pedlars—"Licensing, regulating, and governing"—R.S.O., c. 184, s. 495 (3).*

Under R.S.O., c. 184, s. 495 (3), which provides that the council of any city may pass by-laws "for licensing, regulating, and governing hawkers and pedlars, a city council may, acting in good faith, validly pass a by-law to prevent hawkers and pedlars from prosecuting their trade on certain streets.

Judgment of GALT, C.J., affirmed.

Du Vernet for the appellant.

H. M. Moraw for the respondents.

From C.P.D.]

LAWSON v. MCGEOUCH.

[May 9.

*Assignments and preferences—Bankruptcy and insolvency—Evidence—Presumption—Onus of proof—R.S.O., c. 124, s. 2, s. ss. 2 (a) and 2 (b).*

Held, per HAGARTY, C.J.O., and BURTON, J.A. The presumptions spoken of in s. ss. 2 (a) and 2 (b) of s. 2 of R.S.O., c. 124, Act respecting Assignments and Preferences by Insolvent Persons, is a rebuttable one, the onus of proof being shifted in cases within the subsections.

Per MACLENNAN, J.A.: The presumption is limited to the doctrine of pressure, and as to that is irrebuttable.