

[June 21.]

REGINA v. POTTER.

Intoxicating liquors—Refusal to admit officer—Liability of licensee for offence of servant—R.S.O., c. 194, ss. 112, 130.

Held, per HAGARTY, C.J.O., and MACLENNAN, J.A. : Under section 112 of the Liquor License Act, R.S.O., c. 194, the licensed hotel-keeper is personally responsible for the refusal of his servant to admit an officer claiming the right of search under section 130.

Per BURTON and OSLER, JJ.A. : Section 112 does not apply to an offence of that kind, but is limited to offences connected with sale, barter, and traffic.

In the result, the judgment of the County Court of Frontenac quashing the conviction was upheld.

J. R. Cartwright, Q.C., for the Crown.

McIntyre, Q.C., for the respondent.

[June 21.]

DUNSFORD v. MICHIGAN CENTRAL R.W. CO.

Railways—Fences—Crossings—Gates—5th Vict., c. 29, ss. 194 to 199.

It is the duty of the railway company to see that gates at farm crossings have proper fastenings, and the knowledge of the owner of the farm that the fastenings are insufficient and his failure to notify the company of that fact will not prevent him from recovering damages from the company if his cattle stray from his farm owing to the insufficiency of the gate fastenings and are killed or injured.

Judgment of the County Court of Elgin reversed.

W. J. Tremear and J. A. Robinson for the appellant.

D. W. Saunders for the respondent.

[June 21.]

PURCELL v. BERGIN.

Will—Revocation—Revival by codicil—Void legacies—R.S.O., c. 109, s. 24.

The testator made a will on the 14th of May, 1890, disposing of all his estate, giving to certain charities specific proportions of the residue and naming three persons executors. In January, 1891, he made another will, revoking all previous wills and making a number of specific devises and bequests, but leaving a large residue undisposed of. In March, 1891, he executed a codicil, in which, after stating that "I will and devise that the following be taken as a codicil to my will of the 14th day of May, 1890," he revoked the appointment of one of the named executors "to be one of the executors of this my will," and in his stead appointed another person, "with all the powers and duties in my said will declared." The attestation clause stated that this was signed, etc., by the testator "as a codicil to his last will and testament."

Held, [HAGARTY, C.J.O., dissenting] affirming the judgment of ROBERTSON, J., that there was shown in this codicil an intention to revive the revoked will within the meaning of section 24 of the Wills Act, R.S.O., c. 109.