The plaintiff was travelling in charge of cattle, and while the train was being made up got into a caboose which was standing on the track, thinking, as the fact was, that this caboose was to be attached to the train. While standing in this caboose, washing his hands, the train backed down upon it, and he was thrown down and injured. It was not shown that any of the railway employees knew that he was in the caboose, or that the coupling had been effected with more violence than usually occurs in the coupling of freight cars. The jury disagreed, and subsequently on motion judgment was given for the defendants.

The court dismissed the appeal with costs, holding that the plaintiff had not put himself in the position of a passenger in charge of the defendants, and in the absence of proof of any specific neglect of duty could not recover.

Osler, Q.C., *M. Wilsh*, and *A. W. Aytoun-Finlay* for the appellant.

Aylesworth, and *A. MacMurchy* for the respondents.

CARROL *v.* PENBERTHY INJECTOR COMPANY.

Corporations — Libel — Publication — Admission of Manager — Liability of Corporation for libel published by manager.

The plaintiff was the patentee and manufacturer of an automatic steam injector, and the defendants were a company manufacturing automatic steam injectors, one J. being their manager. A printed circular signed "Penberthy Injector Company," contained certain statements as to the mode in which the plaintiff had obtained his patent, and this action was brought by him on the ground that these statements were libellous. At the trial it was proved that the circular had been found in various places, but the only proof of publication was an admission by J., made in conversation with the plaintiff, that the circular had been issued by the Penberthy Injector Company in reference to a circular issued by the plaintiff.

Held, that no authority can be inferred in a general manager or other officer of a bank or trading corporation of any kind to subject the corporation to actions for libel by his admissions to any person that he had published a libel on another person by their authority, and that there was, therefore no proof of publication.

If J. had been called as a witness and had proved that he had been so authorized, and that it formed part of his duty to do the act complained of, then the libel would be the act of the corporation.

Tench v. Great Western Railway Co., 33 U.C.R., 8, distinguished.

Decision of the Queen's Bench Division reversed.

George Lynch-Staunton and *James Chisholm* for the appellants.

Moss, Q.C., and *Carscallen* for the respondent.

[June 29.

Re GODSON AND THE CORPORATION OF THE CITY OF TORONTO.

Municipal corporations — Investigation by County Judge — Prohibition — R.S.O., c. 184, s. 477.

Where the County Court Judge is making an investigation pursuant to the resolution of a Council under R.S.O., c. 184, s. 477, he is acting as *persona designata* and not in a judicial capacity, and is not subject to control by a writ of prohibition.

That writ is not to be applied to any proceedings of any person or body of persons whether they be popularly called a court or by any other name, on whom the law confers no power of pronouncing any judgment or order, imposing any legal duty or obligation on any individual.

Re Squier, 46 U.C.R., 474, considered.

The decision of ROBERTSON, J. (reported 16 O.R., 275), reversed.

Aylesworth and *Fullerton* for the County Court Judge.

C. R. W. Biggar for the City of Toronto.

Osler, Q.C., and *T. P. Galt* for the respondent Godson.

[June 29.

CRAWFORD *v.* UPPER.

Negligence — Injury caused by runaway horse — Liability of owner — Onus of proof.

The plaintiff while walking on the sidewalk was knocked down and injured by the runaway horse of the defendant. At the time of the accident the horse was harnessed to a sleigh, but no person or driver was in the sleigh, and all that was proved was that the horse was seen running away, that the sleigh upset, the occupants being thrown out, and that the horse then ran on the sidewalk and the accident occurred.