QUEEN'S BENCH DIVISION.

Wilson, C.J.] [November 11.

REGINA v. ORGAN.

Vagrant—Conviction—Evidence—32 & 33 Vict. ch. 28, sec. 1 (D.).

The defendant was summarily convicted under 32 & 33 Vict. ch. 28, sec. 1 (D.), as "a person who, having no peaceable profession or calling to maintain himself by, but who does, for the most part, support himself by crime, and then was a vagrant," etc.

The evidence shewed that the defendant did not support himself by any peaceable profession or calling, and that he consorted with thieves and reputed thieves; but the witnesses did not positively say that he supported himself by crime.

Held, that it was not to be inferred that the defendant supported himself by crime: that to sustain the conviction there should have been statements that witnesses believed he got his living by thieving, or by aiding and acting with thieves, or by such other acts and means as shewed he was pursuing crime.

Bigelow, for the defendant.

COMMON PLEAS DIVISION.

REGINA v. MARTIN.

Conviction—Beating a drum contrary to by-law—Offence.

A conviction found that the defendant on the 16th May, 1886, created a disturbance on the public streets of the village of Lakefield by beating a drum, tambourine, etc., contrary to a certain by-law of the village. The information was in like terms, except that the act is said to have been done on Sunday, 16th May. The by-law under which the conviction was made was "the firing of guns, blowing of horns, beating of drums, and other musical or tumultuous noises on the public streets of Lakefield on the Sabbath day strictly prohibited." The evidence was of a person who said he saw defendant playing the drum on the street on the day in question.

Held, that the conviction was bad and must be quashed; for it should have alleged that the beating of the drum was without any just or lawful excuse.

CHANCERY DIVISION.

[September 6.

BLACK v. BESSE.

Exclusion of witnesses at trial—Witness remaining in court—Rejection of his evidence—New trial.

At the trial of an action the witnesses were put out of court, and before the case was closed defendant's counsel tendered a witness who had remained in court, but the presiding judge refused to allow him to be examined. On a motion for a new trial it was

Held, *per* BOYD, C., that there must be a new trial.

Per PROUDFOOT, J.—The practice is to receive such evidence, but with care.

S. H. Blake, Q.C., and *J. W. McCullough*, for the motion.

Chapple, contra.

Divisional Court.] [September 22.

HALL v. FARQUHARSON.

Tax sale—Improper assessment—Payment of taxes—Non-resident lands—Admissibility of evidence to correct roll.

H., being the owner of four islands, called them O., F., B. and C. islands, and improved O. by building a house, etc., on it. O. had previously been known to some people as island D., and was described by that name in the patent. H. ascertained what taxes he owed and paid all that were demanded. The assessor, from general information, assessed the islands, and so assessed island D. on the non-resident roll for the years in question. The taxes were not paid on island D., and it was consequently sold at a tax sale. In an action by H. to set aside the sale, in which it was shown that F. island was assessed by mistake as the improved island on the resident roll, and O. island on the non-resident roll as island D., it was