

*Held*, beyond the powers conferred by the statute; and a conviction under a by-law was therefore invalid, and must be quashed.

*DuVernet* for the applicant.

No one *contra*.

Div'l Court.]

[Feb. 10.

REGINA v. HOWARTH.

*Practising medicine—Apothecary—R.S.O., c. 141—R.S.O., c. 151.*

A person went into a druggist's shop, stated he was sick, describing his complaint, which the druggist said he understood to be diarrhoea, when the druggist told him to live on milk diet, and gave him a bottle of medicine, for which he charged fifty cents. The druggist said he had several kinds of diarrhoea mixture, and had to enquire sometimes in order to decide what mixture to give.

*Held*, that this was practising medicine for gain within s. 45 of the Medical Act, R.S.O., c. 145.

*Held*, also, that the fact of the druggist being registered under the Pharmacy Act, R.S.O., c. 151, which entitled him to act as an apothecary as well as a druggist, did not authorize the practise of medicine.

The meaning of apothecary considered.

*Allan Cassels* for the applicant.

*B. B. Osler, Q.C., contra*.

Div'l Court.]

[Feb. 12.

REGINA v. WHITAKER.

*Conviction—Merry-go-round—No offence under statute or by-law—Prohibiting exhibitions—Consolidated Municipal Act, 1892, s. 489, s.s. 25—Six days' notice of application for certiorari—Waiver.*

A city by-law passed under s.s. 25 of s. 489 of the Consolidated Municipal Act, 1892, 55 Vict., c. 42 (O.), prohibited exhibitions of waxworks, menageries, circus riding, and other such like shows, usually exhibited by showmen.

*Held*, that this would not support a conviction for exhibiting a machine called a merry-go-round, as constituting no offence under the by-law or statute.

A preliminary objection, that the magistrate had not six full days' notice of the application for the writ of *certiorari*, taken on the return of the motion to make absolute the order *nisi* to quash the conviction, was overruled, it being held that the magistrate, on the facts appearing in the case, waived the objection.

*Glenn* for the magistrate.

*Tremear* and *N. McDonald* for the applicant.

Div'l Court.]

[Feb. 21.

REGINA v. ROBINET.

*Recognizance—Sufficiency of.*

Where a recognizance filed on a motion for a *certiorari* to return a conviction did not negative the fact of the sureties being sureties in any other matter,