

Divl Ct.]

[Sept. 7.]

REGINA v. VERRAL.

*Baggage Transfer Co.—Employee going through train for baggage under agreement with railway company—City by-law against soliciting baggage—Evidence—Ultra vires.*

A city by-law prohibited any person licensed thereunder soliciting any person to take or use his express waggon, or employing or allowing any runner or other person to assist or act in consort with him in soliciting any passenger or baggage at any of the "stations, railroad stations, steamboat landings, or elsewhere in the said city," but persons wishing to use or engage any such express waggon or other vehicle should be left to choose without any interference or solicitation. C., an employee of a baggage transfer company, boarded an arriving railway passenger train at one of the city stations, on its way to the Union station, and went through the cars calling out "Baggage transferred to all parts of the city," and having in his hands a number of the transfer company's checks. No baggage was taken at the time C. was continually doing this, and it appeared to be his sole duty. C. acted under instructions from the transfer company who had an agreement therefor with the railroad company.

*Held*, that there was no breach of the by-law but merely the carrying out of the transfer company's agreement with the railroad company; and further that the railroad train did not come within any of the places mentioned in the by-law.

Per ROSE, J.—If the by-law had covered this case it would have been *ultra vires*.

*Aylesworth* for the applicant.

*Bigelow* contra.

GALT, C.J.]

[Sept. 7.]

COBOURG v. VICTORIA.

*Victoria University—Meetings of senate—Where to be held—4 and 5 Vict., c. 37—47 Vict., c. 93 (O.)*

By 4 & 5 Vict., c. 37, Victoria College was incorporated as at Cobourg. Sec. 3 enacts that the Principal and Professors together with the Board shall constitute the College Senate, which may be assembled as occasion may require by the Principal by giving one month's notice in the official *Gazette* in this province. In 1884

47 Vict., c. 93 (O.) was passed whereby Victoria College and another college was placed under the charge and control of the General Conference of the Methodist Church under the name of Victoria University. Sec. 10 enacts that the President of the University shall be the Chancellor thereof and shall call and preside at all meetings of the Senate. Certain statutes of the University were passed relative to the sessions of the Senate, which provided (1) That the Senate should meet on the first Monday after the college opening, and continue in session by adjournment for eight weeks; (2) A second session should be held commencing on the first Wednesday in March, and continue by adjournment until the close of the academic year; (3) Special sessions of the Senate might be called at any other date by the Registrar on the authority of the Chancellor. On 20th of May, 1889, the Chancellor issued a notice calling a meeting of the Senate at Toronto, and the Registrar of the University issued a similar notice. A meeting was held at Toronto under protest. After the passing of 38 Vict. special meetings of the senate had been held at Toronto, but it did not appear how these meetings had been called, or if any notice had been given in the official *Cassette*.

*Held*, that under the existing statutes the meetings of the Senate must be held at Cobourg, the site of the University, and therefore the meeting called for and held at Toronto on May 20th was illegal.

*Robinson, Q.C., and C. J. Holman* for the plaintiff.

*Britton, Q.C., and Moss, Q.C.,* for the defendants.

Divl Ct.]

[Sept. 7.]

REGINA v. GRANT.

*By-law authorizing imprisonment for six months—Validity of—Conviction—Costs of conveying to gaol included in—Invalidity of—Evidence of defendant.*

A by-law of the city of Brantford enacted that any person found drunk in any of the public streets, etc., thereof, should be subject to the penalty thereby imposed, namely, to a fine of not exceeding \$50 inclusive of costs, and in default of payment forthwith of the fine and costs, distress, and in default of sufficient distress, imprisonment in the common gaol for a period not