on the case, for the purpose of conforming the testimony of witnesses; although in general they are excluded. In *Melhurst* v. *Collier*, the Court held that where a witness for the plaintiff denied the existence of a material fact, and testified that the plaintiff had offered him money to assert its existence, plaintiff was allowed to prove the fact and to disprove the subornation, on the ground that it had become material to the issue.—*Central Law Journal.*

[NOTE.—The authorities for the propositions above stated will be found on reference to the article from which this extract is taken, Vol. 22, p. 493.—Ed. L.J.]

NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

QUEEN'S BENCH DIVISION.

Wilson, C.J.] [May 11.

REGINA v. MCNICOL.

By-law for licensing hawkers and petty chapmen—Agent for person residing out of county—Accused compelled to testify—Intent to evade by-law—Quashing conviction—48 Vict. cap. 40 (O.).

Under a by-law of the county of Bruce, passed in pursuance of sec. 495 of the Con. Mun. Act, 1883, the defendant was convicted for selling and delivering teas as the agent of one P. W., of the city of London, contrary to the said by-law. The third section of the by-law was a copy of sec. 1 of 48 Vict. cap. 40 (O.).

It appeared from the evidence of the defendant himself, who was called for the prosecution, the objection of his solicitors to his being made a witness being overruled, that he bought the tea, for selling which contrary to the by-law he was charged, of one W., of the city of London. He was not the agent of W. in the sale, but was himself the owner of the tea, having purchased it out and out. The defendant formerly had sold tea on commission for W., but now purchased, as he said, to evade the by-law. The conviction alleged that the defendant was the agent of P. W., of the city of London, but did not allege that the defendant had not the necessary license to entitle him to do the act complained of.

Held, that inasmuch as the defendant was, according to the evidence, an independent trader, and not an agent, he did not come within the provisions of Con. Mun. Act, 1883, sec. 495, sub-sec. 3, nor within 48 Vict. cap. 40 (O.).

Held, also, that the conviction was insufficient in not stating that P. W. was "not resident within the county," and that the expression "of the city of London" was insufficient.

Held, also, that it was improper to compel the defendant to give evidence against himself.

Held, also, that the possession of a license is a matter of defence, and not of proof for the prosecution.

Held, also, that the intention to evade the by-law was immaterial, so long as the agency did not in fact exist.

Upon these and other grounds the order to quash the conviction was made absolute.

Clement, for the motion.

H. J. Scott, Q.C., contra.

Galt, J.]

REGINA v. MCCARTHY.

Amending conviction—Plea of guilty to defective information.

The convicting magistrate may amend his conviction at any time before the return of the certiorari, and the Court refused to quash because there had been a conviction previously returned which was bad, especially as this had not been filed.

The objection that the defendant has pleaded guilty to a defective information is, under 32-33 Vict. ch. 31, sec. 5 (D.), not admissible.

H. J. Scott, Q.C., for motion.

Aylesworth, contra.