

Practice.

C.P. Div'l Court.]

[Dec. 24.]

REGINA v. CONNOLLY.

Criminal law—Hearing before magistrate—Refusal to admit evidence—Mandamus.

At the hearing of a criminal charge before a magistrate, evidence given before a special committee of the House of Commons and taken down by stenographers was tendered before the magistrate and refused by him.

Held, that the court had no power to grant a mandamus to the county judge directing him to receive such evidence.

Robinson, Q.C., Osler, Q.C., and Hogg, Q.C., for the motion.

Lash, Q.C., A. Ferguson, Q.C., and Fitzpatrick, Q.C., of the Quebec Bar, *contra*.

ROSE, J.]

[Jan. 27.]

MCGILL v. LICENSE COMMISSIONERS OF BRANTFORD.

License commissioners—Power to pass resolutions fixing hours for sale of liquor—R.S.O., c. 194, ss. 4, 32, 54—Notice of motion—Power to quash.

License commissioners appointed under R.S.O., c. 194, passed on 17th April a resolution providing that after 1st May following, in all places where intoxicating liquors are or may be sold by wholesale or retail, etc., no such sale or disposal of the same shall take place therein, etc., between the hours of 12 p.m. and 5 a.m., which was amended by substituting 11 p.m. for 12 p.m.

Held, that under s. 4, enabling the license commissioners to pass resolutions for regulating taverns and shops there was power to pass the resolutions here, and that such power was not interfered with by ss. 32 and 54, no by-laws on the subject having been passed by the municipality.

Quere: Whether there is power, on notice of motion, to quash resolutions of this kind.

Daniels v. Municipal Council of Burford, 10 U.C.R. 478; *Cesar v. Municipality of Cartwright*, 12 U.C.R. 341, commented on.

DuVernet for the applicant.

Wilkes, Q.C., *contra*.

C.P. Div'l Court.]

[Feb. 27.]

REGINA v. STAPLETON.

Insurance—Accident—Fraternal societies—Insurance Act, R.S.O., c. 124, ss. 43, 49—Conviction.

The defendant, with the alleged object of starting in O—, Ontario, a branch of a society called the International Fraternal Alliance, having its head office in the United States, induced a number of persons to make application for membership therein, and to pay a joining fee of \$5, which, in addition to certain alleged social benefits, entitled a member, on application therefor and on payment of certain fees, to pecuniary benefits, namely, a certificate entitling the member to a weekly payment in case of sickness or accident, and certain other sums in case of death or after a stated period. The defendant gave the applicants a receipt acknowledging the payment of the \$5 for, as stated, the purposes mentioned in an agreement written thereunder, namely, to forward to the head office the application on signature thereof, and, if declined, to return amount paid; but, if accepted, the payer was constituted a member, etc., entitled to the full benefits of all social advantages, and thereafter might secure all the pecuniary benefits on application therefor.

Held, that the defendant was carrying on the business of accident insurance without having obtained the necessary license therefor, contrary to s. 49 of the Insurance Act, R.S.C., c. 124, and that no protection was afforded by s. 43, relating to fraternal, etc., societies, the scheme not being an insurance of the lives of the members exclusively, and a conviction of the defendant for carrying on such business was therefore affirmed.

Lount, Q.C., for the motion.

REGINA v. SOUTHWICK.

Liquor License Act—License commissioners taking part in trial—Evidence of—Taking seat on platform—Provision for distress in conviction and not in adjudication—Sale to lodger during prohibited hours.

At the trial of an offence under the Liquor License Act the bench at which the magistrate sat consisted of a desk on a raised platform at the end of the court room, and on the platform, some four feet distant from the desk, was a