

taking a bottle of whisky away from the defendant's house, and that the defendant's wife was seen trying to hide a case of whisky, should not have been admitted, and not only might have affected but did affect the decision of the Justices. The question was, whether the evidence was or was not relevant to the issue, and that was considered by Clute, J., in *Rex v. Melvin* (1916), ante 215. In this case, however, considering the nature of the charge, it could not be said that the evidence objected to was not relevant to the issue.

It was contended also that the information upon which the search-warrant was issued did not disclose the facts and circumstances shewing the causes of suspicion that a violation of the Act had occurred: *Rex v. Bender* (1916), 36 O.L.R. 378. But, even if that were so, the conviction had been made, and its validity would not be affected by the improper issue of the search-warrant: *Rex v. Swarts* (1916), 37 O.L.R. 103, 108.

*Motion dismissed with costs.*

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BOWERMAN v. STEPHENS—FALCONBRIDGE, C.J.K.B.—DEC. 18.

*Contract—Money Demand Arising out of Dealing in Land—Evidence—Weight of—Independent Advice.*]—Action for the recovery of money lent and money of the plaintiff had and received by the defendant. The dispute arose out of a land transaction. The action was tried without a jury at Hamilton. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the defendant was a solicitor, but as regards this transaction he and the plaintiff did not occupy the relation of solicitor and client. The defendant had done some trifling professional work for the plaintiff, but as to the matter involved in this action they were quite on the same plane, and the defendant was dealing with the plaintiff as with a stranger. Even were this not so, the plaintiff presented the appearance of one not easily overreached or misled, not standing much in need of independent advice, and by no means likely to act without independent advice if he thought he required it. It was a case of oath against oath, with the writings not favouring the plaintiff's contention, and the witness Robins contradicting the plaintiff as to one item. The plaintiff failed, and his action must be dismissed with costs. W. S. Brewster, K.C., for the plaintiff. G. Lynch-Staunton, K.C., and H. J. McKenna, for the defendant.