

persons are resorting there, as the deponent has good reason to believe, for the purpose of drinking the same." It was impossible to say that the magistrate could not consider the above as reasonable grounds of suspicion. The search-warrant should not be quashed.

The detective who executed the search-warrant did not find any intoxicating liquor upon the premises; but he found men drinking there, and he deposed that he knew from the smell that there had been whisky in the glasses from which the men drank; he also deposed that the bar-room was shut and bolted, but was opened to admit certain persons.

The learned Judge said that there was nothing to prevent a magistrate, at least when sitting as a judge of fact, from exercising his common sense and using every-day knowledge.

A tavern-keeper who keeps his bar-room bolted, to be opened to admit such persons as he chooses, who keeps whisky glasses all smelling of whisky (most of them very strongly), who rings up the price of two drinks upon the cash-register in his bolted bar-room just before two men come out of it, and who can give no reason why he should, one of whose customers is seen to take a drink from one of the whisky glasses, followed by a drink of water—cannot complain if the magistrate comes to the conclusion that he was selling whisky.

*Motion dismissed with costs.*

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McCONNELL v. TOWNSHIP OF TORONTO—BRITTON, J.—MAY 4.

*Negligence—Municipal Corporations—Ditches and Water-courses—Failure to Provide Sufficient Outlet—Injury to Land—Damages—Claim over against Third Party—Evidence—Findings of Fact of Trial Judge.*—Action for damages for injury to the plaintiffs' lands by water brought upon them by the acts of the defendants, the township corporation, as the plaintiffs alleged, in diverting the water from the course in which it would naturally flow. The defendants brought in the Toronto Golf Club as third parties. The action and the claim of the defendants over against the third parties were tried without a jury at Toronto. BRITTON, J., reviewed the evidence in a brief written opinion. He said that the evidence established that the defendants made a ditch or drain along the west side of a highway to the east of the plaintiffs' lands, and that by that ditch water was brought to the plaintiffs' lands that would not otherwise have flowed there. It was the duty of the defendants to provide a sufficient outlet for that water, which