

REX v. SLEW—ROSE, J., IN CHAMBERS—JAN. 26.

*Ontario Temperance Act—Magistrate's Conviction for Offence against sec. 41—Having Intoxicating Liquor in Place other than Private Dwelling House—Total Absence of Evidence of "Having"—Order Quashing Conviction.*]—Motion by the defendant to quash a conviction, by a magistrate, for having intoxicating liquor in a place other than his (the defendant's) private dwelling house, contrary to the provisions of the Ontario Temperance Act. ROSE, J., in a written judgment, said that there might be a suspicion—but it was no more than mere suspicion—that the defendant had some interest in the dealings of other persons with the liquor in respect of which he was prosecuted; but there was no evidence that he ever had any liquor in any place whatsoever. The conviction should be quashed, with the usual order for the protection of the magistrate and officers concerned. J. M. Bullen, for the defendant. F. P. Brennan, for the magistrate and informant.

SIXTH DIVISION COURT OF THE COUNTY OF PERTH.

BARRON, Co. C.J.

JANUARY 15TH, 1921.

AITCHISON v. TOWNSHIP OF ELMA.

*Assessment and Taxes—Increase in Amount of Assessment without Notice to Person Assessed—Taxes Paid under Protest—Action to Recover Payment Made—Mistake in Assessment Roll—No Mistake as to Notice—Assessment Act, secs. 49 (1), 69 (19), 72 (1)—Curative Provision, sec. 70—Application of—"Voluntary Payment."*

An action to recover \$10 paid under protest by the plaintiff to the collector of taxes of the Municipal Corporation of the Township of Elma, the defendants, and accepted by the collector under protest.

H. B. Morphy, K.C., for the plaintiff.

J. C. Makins, K.C., for the defendants.

BARRON, Co. C.J., in a written judgment, said that the plaintiff's property was assessed for \$7,300, and notice of the assessment, under the Assessment Act, R.S.O. 1914 ch. 195, sec. 49 (1), was duly served upon him by the assessor. Some time afterwards, and too late to appeal, the plaintiff discovered that his assessment had been increased by \$700, without notice to him and without his