

“store” is used to denote a place where goods are kept for sale, and quote Captain Basil Hall, writing about his travels in North America, where he says, “‘Stores,’ as the shops are called.” See Century Dictionary and English Imperial Dictionary, sub voce “store.”

The legislation gives power to forbid the residential districts in cities being disturbed by the near locality of places where business is actively carried on, places to which the public is invited to come for purposes of traffic (buying and selling) or where anything like manufacturing work is being done. The broad meaning of “shop” is: (1) a building appropriated to the selling of wares at retail; and (2) a building in which making or repairing of an article is carried on or in which any industry is pursued; e.g., machine-shop, repair-shop, barber’s shop: see Century Dictionary sub voce “shop.”

I think the permit may properly issue in this case to erect this building as a place of storage only, so that whatever engines or machines may be deposited there for safe-keeping are not to be repaired, refurbished, painted or otherwise dealt with, as might be in a repair-shop or place of manufacture.

With these restrictions, I grant the application, but it is not a case for costs; the city authorities have not acted capriciously, and have had cause to fear that the building might be improperly used, were a broad permit given.

DIVISIONAL COURT.

SEPTEMBER 21ST, 1912.

RE ST. DAVID’S MOUNTAIN SPRING WATER CO. AND
LAHEY.

Landlord and Tenant—Summary Proceeding to Eject Overholding Tenant—Dispute as to Tenancy—Evidence—Inference of Assent from Silence—Credibility of Witness—Rejection of Testimony—New Trial—Costs.

The company, claiming to be the owners of certain property in the possession of Lahey, whom they alleged to be their tenant, served him with a notice to deliver up possession. Upon his refusal to do so, they took proceedings under the Overholding Tenants Act, before the Judge of the County Court of the County of Welland. The Judge made an order for possession;