

"To be within its provisions an offence must have been committed in a public place such as a street, square, park or other open place." Another case which is strikingly like the present one is *Case v. Story*, L.R. 4 Ex. 319. That was a case where a hackney carriage driver, standing on the premises of a railway company by their leave, for the purpose of accommodating passengers by their trains, was requested by a party to drive him, and refused; and it was contended that he was bound to do so under the statute which provides that every carriage . . . which shall be used for the purpose of standing or plying for hire in any public street or road in any place within a distance of five miles from the general Post Office in the City of London . . . shall be obliged and compellable to go with any person desirous of hiring such hackney carriage.

Kelly, C.B., in his judgment, at page 323, says: "We have to consider the subsequent words of the definition 'in a public street or road.' It is clear to me that railway stations are not either public streets or public roads. They are private property; and although it is true they are places of public resort, that does not of itself make them public places. The public only resort there upon railway business, and the railway company might exclude them at any moment they liked, except when a train was actually arriving or departing. For the proper carrying on of their business they must necessarily open their premises, which are, nevertheless, private, and in no possible manner capable of being described as public streets or roads." And at page 324, when referring to the contention of counsel that "place" is a large term, he says: "We must take it as only meaning a place ejusdem generis with a street."

A perusal of the report of *Curtis v. Embery* (1872), L.R. 7 Ex. 369, is helpful in arriving at the meaning to be given to "a public place." There Bramwell, B., in defining the meaning of "road" which was referred to in the statute then under consideration, and which was used in giving the interpretation of the word "street" used in that statute, said that it "must be a road over which the public have rights."

"Public place" in section 13 above, especially when taken in connection with the word "street" which precedes it, must mean a place over which the public have rights as over a street, and not a place where, as a hotel, persons are permitted to go for accommodation such as a hotel affords.

I am unable to agree with the contentions set up that the hallway and rooms of the hotel, where alone the accused was found intoxicated at the time in question, is a public place within the