

sell liquor. but was expressly prohibited from so doing: sec. 49 (1).

But it was argued for defendants that, in the circumstances of this case, plaintiff should be held to be a person who had obtained and possessed a license under the Act authorizing him to sell spirituous, fermented, and other manufactured liquors within the meaning of sec. 49 (1).

I am unable to agree with this argument.

Section 16 provides that, subject to the provisions of the Act as to removals and transfers of licenses (which have no bearing on the question under consideration), "every license for the sale of liquor shall be held to be a license only to the person therein named and for the premises therein described, and shall be valid only so long as such person continues to be the occupant of the said premises, and the true owner of the business there carried on."

It may be that, inasmuch as Kuntz was not the occupant of the premises described in the license issued to him, or the true owner of the business there carried on, the license was never of any validity; but, however that may be, it is clear, I think, that the license conferred no right upon plaintiff to sell liquor in the course of his own business and on his own account; the license was a personal one to Kuntz, and for a business to be carried on by him in the premises described in the license, of which, in order that the license should be effectual, he must have been and have continued to be the occupant . . . Plaintiff was not, even in form, either the agent or servant of Kuntz.

The provisions of sec. 16 render it impossible, I think, to hold—assuming plaintiff's position to have been that of a cestui que trust and Kuntz to have been a trustee for him—that the license conferred upon plaintiff, as cestui que trust, any right to sell liquor of his own and for his own benefit on the premises described in the license.

The language of the section is plain, and the provisions as to obtaining a license emphasize the declaration contained in it. . . .

"A license shall not be granted until the inspector has reported in writing to the license commissioners that the applicant is a fit and proper person to have a license, and that he is known to the inspector to be of good character and reputation:" sec. 11 (1).

The inspector "shall not report in favour of any applicant other than the true owner of the business of the tavern or shop proposed to be licensed:" sec. 11 (2).