

**Sec. 84.**—(2) New sub-section 1917, c. 50, s. 30: the actual offender personally incurs the penalty and may be prosecuted jointly with, or separately from the occupant, but both of them cannot be convicted of the same offence, and the conviction of one is a bar to the conviction of the other.

**Sec. 88.** Once possession of intoxicating liquor is proved, a conviction may follow if the accused cannot satisfy the magistrate that he is not guilty of offence with which he is charged, i.e., an offence against some provision of the Act; the magistrate's decision cannot be reviewed upon a motion to quash: *Rex v. LeClair*, 39 O. L. R. 436.

Where defendant was charged under s. 41, and it was proved that a quantity of liquor was delivered to him, it was held that the onus was cast upon him of showing what he had done with it, being the "liquor concerning which he was being prosecuted": *Rex v. Moore*, 41 O. L. R. 372.

Onus on the defendant: *Rex v. Axler*, 40 O. L. R. 304; *Rex v. Tugman*, 40 O. L. R. 349.

**Sec. 92.**—(1) In *Rex v. Thompson*, 39 O. L. R. 108, it was held (Masten, J.) that there was no statutory prohibition against certiorari in cases coming within this sub-section; notwithstanding that s. 72 imports the provisions of the Summary Convictions Act (R. S. O. c. 90), and that s. 10 of that Act under certain conditions takes away the right to certiorari, yet s. 10 itself is excluded by this sub-section.

**Sec. 92.**—(2) Amended 1917, c. 50, s. 31: licensee in this section includes the holder of a standard hotel license: 1918, c. 40, s. 17: procedure on appeals. In cases falling within this sub-section the provisions of s. 10, s.-s. (3) of the Summary Convictions Act (R. S. O. c. 90), which are made applicable by s. 72 of this Act, take away the right to certiorari: *Rex v. Warne Drug Co., Ltd.*, 40 O. L. R. 469: q.v. for opinion of Masten, J., who considered himself bound by *Rex v. Cantin*, 39 O. L. R. 20, and *Rex v. Chappus*, 39 O. L. R. 329.