

ing been amended, and it is clear that as first drawn it read, "was intoxicated contrary to section eighty-six of the Liquor License Act," and that the amendment made was by striking out the words "section eighty-six" and substituting therefor the words "the provisions," and by adding after the words "Liquor License Act," the words, "upon a street or in a public place in the Township of Eastnor."

From the appearance of the document the conclusion might be reached that the amendment was made after the accused had pleaded "not guilty." If the only objection to the conviction were that it does not shew an offence, I should feel disposed to quash the conviction on that ground; but I do not rest my judgment upon that, but on the other ground mentioned.

Three different forms of conviction have been returned, one being "that said John H. Cook was intoxicated on a street and in a public place in the Township of Eastnor on July 8th, 1912," another: "That said defendant did get intoxicated in the Williams hotel in the Township of Eastnor on July 8th, 1912," and the third: "That the said J. H. Cook on the 8th day of July, 1912, in the Township of Eastnor in the county of Bruce was found upon a street and in a public place at Lions Head in the Township of Eastnor in the said county in an intoxicated condition owing to the drinking of liquor contrary to the Ontario Liquor License Act and amendments thereto, there being then in force in the municipality of the township of Eastnor a by-law passed by the municipality of Eastnor under section 141 of the Liquor License Act commonly known as the local option by-law."

While there is quite sufficient evidence that the accused was intoxicated, there is no evidence that he was found intoxicated on a street or in a public place, unless effect be given to the contention set up on behalf of the magistrates that the Williams hotel in Lions Head, in which the accused was intoxicated, is a public place.

The intention of the amendment to the Liquor License Act made in 1912, 2 Geo. V. ch. 55, sec. 13, was to protect the public from being met by the sight of intoxicated persons on streets, and in public places of a character similar to streets, where the public generally have a right to be; and in making use of the words "any public place," it was no doubt intended that it should apply to a place ejusdem generis with a street, and not to a place such as the hotel in question.

The words used in the judgment of the Divisional Court in *Regina v. Bell*, 25 O.R. 272 (at p. 273), are apt to this case, viz.: