

liquor," and, if the same should be found, to bring it before the magistrate. The warrant followed Form R. in the schedule to an Act amending the Canada Temperance Act, 6 & 7 Geo. V. ch. 14.

The warrant was handed to a constable, who procured the assistance of four persons, the defendant being one. The party of five went into the bar of the plaintiff's hotel, and there found many bottles and two men drinking. Some of the party, amongst them the defendant, kept watch at the door to see that no one escaped with liquor.

The defendant, who was a minister and president of a temperance society, being sued in trespass, justified under the warrant.

The form was authorised by sec. 136 of the Canada Temperance Act (see the amending Act). Parliament, having jurisdiction over the subject-matter, may give the magistrate power to issue a warrant in this form—and it must be considered that Parliament intended the warrant to have validity for the purposes set out in it. The argument that the only assistance a constable can call is to prevent a breach of the peace should not prevail.

No jury could be allowed to find, on the evidence, that the number of persons (five) was more than necessary or proper. The judgment of the constable, exercised in good faith, was conclusive.

The defendant knew that Hunt had to search, was requested to help, told that his assistance was needed, and that he was expected to watch the door, remaining outside. There was nothing to indicate that the defendant went with any intention beyond what the warrant directed.

It was argued that the defendant acted illegally after he entered, and consequently that the entry became tortious ab initio; but there was no evidence of any illegal act.

The County Court Judge should not have left the case to the jury at all.

The appeal should be allowed with costs and the action dismissed with costs.