

SUTHERLAND, J., was of opinion that the judgment of Middleton, J., was right, and agreed that the appeal should be dismissed with costs.

RIDDELL and MASTEN, JJ., dissenting, were of opinion, for reasons stated by MASTEN, J., in writing, that the appeal should be allowed.

*Appeal dismissed (RIDDELL and MASTEN, JJ., dissenting).*

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HIGH COURT DIVISION.

MEREDITH, C.J.C.P., IN CHAMBERS.

JUNE 23RD, 1920.

\*REX v. CRAMER.

*Ontario Temperance Act—Magistrate's Conviction for Offence against sec. 41—Having Intoxicating Liquor in a Public Place—Carrier for Hire—Absence of Control—Aiding and Abetting—Sec. 84 (2) (7 Geo. V. ch. 50, sec. 30)—Evidence—Depositions—Signing by Defendant.*

Motion to quash the conviction of the defendant by a Police Magistrate.

J. E. Lawson, for the defendant.

F. P. Brennan, for the magistrate.

MEREDITH, C.J.C.P., in a written judgment, said that the applicant was convicted of unlawfully having liquor in a public place, contrary to the provisions of sec. 41 of the Ontario Temperance Act; but nothing is said in that section about a public place; that which the section condemns, in so far as such a case as this is affected by it, is having liquor "in any place whatsoever, other than the private dwelling house in which he resides." It is immaterial whether the place is a public or a private one; the question is, whether the place is or is not one where liquor might lawfully be; and no one could reasonably contend that the section in question prevents the carriage of liquor from a place where it lawfully was to a place where it lawfully might be, even if that were not expressly provided for, as it is, in sec. 43.

The liquor in question was being carried by the owner or his partner or agent from a railway station, where it lawfully was,