

purpose mentioned, the Court refused to disturb the conviction. In this case MACMAHON, J. refers to the cases of *Graff v. Evans* and *Newell v. Hemmingway*, and says they are of little value in determining the question to be decided under the special enactment of s. 53. The defendant in that case was the secretary and treasurer of the club (which was incorporated), and was found in the club-room when the inspector who laid the information visited them and found there a counter with glasses, bottles and a large quantity of beer, lager beer, whiskey, gin, etc. MACMAHON, J. thought there was ample proof of "intended consumption" of liquor in such premises" by members of the club, so as to make the defendant liable as a member of the club to be held "to be the person who has or keeps therein such liquor for sale or barter" within the meaning of sub-s. 3 of s. 53. In the case I am considering it is clear that there was both "consumption" and "intended consumption" of liquor in such premises by the members of the club.

*Reg. v. Hughes*, 29 O.R. 179 does not afford assistance in this case, as it proceeded on the ground that the defendant, though steward of the club, was really keeping liquor on his own account, as the club was prohibited from selling by its charter. It is important here, though, as shewing that the word "keeping" does not necessarily imply property, but may signify share of government or control: per BOYD C. at p. 184. *Reg. v. Slattery*, 26 O.R. 148, is not an authority here, as the club in that case, of which the defendant was manager, was incorporated under the Ontario Joint Stock Companies Letters Patent Act, and the provisions of s. 53 of the Liquor License Act, then R.S.O. (1887) c. 194, were not applicable to such a club. Nor is *Reg. v. Charles*, 24 O.R. 432, in point for the same reason. I have therefore, to dispose of this appeal without the aid of any direct authority.

Sec. 53 of the Liquor License Act R.S.O. c. 245, applies to any unincorporated society, association or club, and therefore to the Cobourg Whist Club. The second part of s. 53 makes the keeping or having in any room or place occupied or controlled by such club, association or society, or any members or member thereof, or by any person resorting thereto, of any liquor for sale or barter a violation of s. 50 of the Act. Then sub-s. 3 enacts that "proof of consumption or intended consumption of liquor in such premises by any member of such club, association or society, or person who resorts thereto, shall be conclusive evidence of sale of such liquor, and the occupants of such premises or any member of the club, association or society, or person who resorts thereto shall be taken conclusively to be the person who has or keeps therein such liquor for sale or barter."

It was contended on behalf of the defendant that, though there was proof of consumption of liquor in the premises by members of the club on the occasion complained of, it was still open to the defendant to shew that the liquor was not kept there for sale or barter, and that he, though a member of the club, did not have or keep liquor therein for sale or barter,