

FALCONBRIDGE, C.J.K.B., IN CHAMBERS.

APRIL 13TH, 1918.

REX v. ROSARRI.

Ontario Temperance Act—Magistrate's Conviction for Offence against sec. 41(1)—Having Liquor in Place other than Private Dwelling-house—Evidence—Sec. 88 of Act—Question for Magistrate—Motion to Quash Conviction.

Motion to quash a conviction of Francesco Rosarri, by a magistrate, for an offence against sec. 41(1) of the Ontario Temperance Act, 6 Geo. V. ch. 50, by reason of the defendant having intoxicating liquor in a place other than his private dwelling-house.

G. H. Pettit, for the defendant.

J. R. Cartwright, K.C., for the Crown.

FALCONBRIDGE, C.J.K.B., in a written judgment, said that *Rex v. Le Clair* (1917), 39 O.L.R. 436, was conclusive in a case like this. Under sec. 88 of the Ontario Temperance Act, it was "a question for the magistrate; and his decision cannot be reviewed upon a motion to quash." The magistrate may not have believed the defendant—the Court could not accept statements of what the magistrate said as to this—or he may have thought that, as the defendant did not say that he paid duty on the liquor, his possession could not be lawful.

Motion dismissed with costs.

LENNOX, J.

APRIL 13TH, 1918.

*CITY OF TORONTO v. TORONTO R.W. CO.

Street Railway—Agreement with City Corporation—Construction—55 Vict. ch. 99, sec. 25 (O.)—Claim of City Corporation to Recover Moneys Expended in Removing Snow and Ice from Railed Streets of City—Liability of Street Railway Company—Jurisdiction of Court—Exclusive Jurisdiction of Ontario Railway and Municipal Board—Ontario Railway and Municipal Board Act, secs. 21, 22—63 Vict. ch. 102, sec. 5 (O.)—4 Edw. VII. ch. 93, sec. 3 (O.)

Action to recover \$14,391.47 which the plaintiff, the Corporation of the City of Toronto, alleged it was compelled to expend in