

have, keep, or give liquor in other than a private dwelling-house, contrary to the provisions of the Ontario Temperance Act."

Section 41 (1) of the Act, 6 Geo. V. ch. 50, is: "Except as provided by this Act, no person by himself, his clerk, servant, or agent, shall have or keep or give liquor in any place wheresoever other than the private-dwelling-house in which he resides, without having first obtained a license . . .".

H. S. White, for the defendant, contended that the cellar under the apartment-house in which the defendant resided was a proper and legal place in which he might keep intoxicating liquor.

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

FALCONBRIDGE, C. J. K. B., in a written judgment, said that under the apartment-house in which the defendant resided there was a cellar. It was entered by means of an open stairway from the back verandahs of the apartments, like a rear entrance to the cellar of an ordinary dwelling. There was no stairway inside the building leading to the cellar. Each of the tenants or occupants of the different suites of apartments had a key to this outside door. The cellar was partitioned off into what the officers called "fruit-cellars," and one of these divisions was allotted to each of the occupants. There was a number on each, one corresponding with the number of the apartment to which it belonged; and the tenant had his own separate and individual key to his own compartment, of which he had the sole use and occupation.

The intention and effect of this arrangement was to bring this cellar within the curtilage, and to give the occupant the same rights as he would have if he had a cellar of his own. The defendant was therefore, within the saving clauses of the Act, and the conviction, must be quashed and the confiscated liquor returned to him.

The defendant pleaded guilty to having liquor in his garage, and he had a suspiciously large quantity and assortment of liquor in the cellar, and also *a measure*.

There should be no costs of the motion, and the order should contain a clause protecting the magistrate and officers.

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RE SOLICITORS—FALCONBRIDGE, C.J.K.B.—JULY 24.

*Solicitors—Bill of Costs—Taxation between Solicitor and Client—Agreement—Lump Sum—Retainer-fee—Consultation-fee—Tariff of Costs—Discretion of Taxing Officer—Review—Appeal—Costs of Reference and Appeal.*—Appeal by William Crawford, client, from