

*Haverson, K.C.*, for the defendant. *E. P. Clement, K.C.*, for the complainant.

READE, CO.J.:—In the opening, Mr. Haverson objected that the information only charged that the defendant “did unlawfully at his hotel have a second bar,” and that the formal conviction used the same words, and contended that the information and conviction thereby disclosed no offence under the Act. Both the information and conviction, however, refer to section 65 of the Liquor License Act as the one contravened, and I find that by the provisions of the Criminal Code the description of any offence in the words of the Act, or any similar words, shall be sufficient in law, and that no objection shall be allowed to any information for any alleged defect therein in substance or in form, but that if by reason of any variations between the information and the evidence in support thereof it appears that the defendant is deceived or misled, the justice may adjourn the hearing of the case, and in the case of an indictment, which includes an information, it is provided that a court therein may refer to any section or sub-section of any statute creating the offence charged therein, and in estimating the sufficiency of any such count, the court shall have regard to such reference, and in this case the particular section of the Act under which the charge was laid being referred to both in the information and formal conviction, I find that both are sufficient, and disclose an offence under the Act.

No evidence was offered or taken before me, but it was admitted that the defendant was, at the time of the alleged offence, a duly licensed hotelkeeper in the village of Elmira in the county of Waterloo, and that on the 24th day of September, 1913, upon which day an Agricultural Fair was being held in the said village, a structure was erected and used as a bar in the defendant's hotel across the hall from the regular bar.

The whole matter thus hangs upon the true meaning of the word “kept” as used in the said section.

The word “keep,” according to dictionary interpretation, has many shades of meaning according to the various ways in which it is used, sometimes indicating permanency and sometimes not, and one must look to the context and apply one's reasoning faculties in a common sense way in order to arrive at what appears to be the natural meaning of the word, and the intention of the Legislature in using it in the way that it did, and not on the other hand set one's self to refine and narrow down its meaning so as to unduly limit its application.