

not exceeding 21 days; whereas the regulation number 17, imposes a fine of not less than \$25 or more than \$50, and in default of distress imprisonment for not less than 20 days, nor more than 40 days, and he refers to *The King v. Wendling*, 40 C.L.J. (1904) 432; an unreported case of *Regina v. Herlick*, Nov. 6, 1896; *Marks v. Benjamin*, 5 M. & W. 565; *Shutt v. Lewis*, 5 Esp. 128, Digest of English Case Law, vol. 5, p. 970; *Syers v. Conquest*, 28 L.T. 402, 21 W.R. 524; *Regina v. Osler*, 32 U.C.R. 324; *McLeod v. Kincardine*, 38 U.C.R. 617.

Seager, County Attorney, contra. The conviction is good either under the Act or under the regulations, and that if it can be sustained under either, he is entitled to do so. The whole matter turns on the meaning of the word "keep," and that to do as the defendant did, even for one day only, is a breach of either the regulation or of s. 65 of the Act. Under sub-s. 4, of s. 4, of the Liquor License Act, the Commissioners have the fullest power delegated to them by Parliament to regulate hotels. *Hodge v. The Queen*, 9 A.C. 117; *Kruse v. Johnston*, 2 Q.B. 91; *Biggars' Municipal Act*, pp. 335, 337. The fact of the Legislature having legislated does not imply that the Commissioners are prevented from legislating as to the two bar rooms. *Rex v. Laird*, 6 O.L.R. 182; *Reg. v. Martin*, 21 A.R. 146. And both bodies may deal with this subject, and both deal with it by awarding different punishments. There is nothing in the conviction that is against the law, nothing which is excessive. The \$20 fine seems to be \$3 less than the regulation provides for, but that is a matter for amendment. *Reg. v. Spooner*, 4 Can. Crim. Cas. 214; *Ex parte Nugent*, referred to 1 Can. Crim. Cas. 126; Crim. Code, s. 889; Liquor License Act, s. 118, sub-s. 8.

Reg. v. Dunning, 14 O.R. 82, is cited to shew that where part of a conviction is wrong it may be quashed as to that part, without quashing the remaining part.

As to the meaning of the word "keep," this applies to one day as much as it would to a week or a month, and the judgment in *Reg. v. Herlick* is erroneous.

HOLT, Co. J.:—I shall deal first with the regulation 12, which says, "the bar room in every tavern . . . shall consist of one room only." This, to me, seems to mean the same thing as s. 65 of the Act, which says that not more than "one bar shall be kept . . ." I can't conceive of there being two bar rooms without two bars. As I understand the meaning of the word, bar room is the room in which there is a bar so that without two bars you can't have two bar rooms. If this is so, then the Commissioners have imposed a larger fine by their regulation 17 than the Act, s. 86, allows for keeping two bar rooms; for the latter offence the fine is not less than \$20, besides costs, nor more than \$50,