

GENERAL SESSIONS OF THE PEACE—COUNTY OF YORK.

Winchester, Co. J., Chairman.]

[Feb. 23.

REX v. GOODING.

*Conviction under by-law—Appeal—Drainage and water system of buildings—Construction, reconstruction or alteration, in respect of same—Repairs—Meaning of terms.*

The defendant had been convicted by R. E. Kingsford, one of the Police Magistrates for the City of Toronto, of having, contrary to a by-law of the municipality directing that "before proceeding to construct, reconstruct, or alter any portion of the drainage, ventilation, or water system of any hotel, warehouse, dwelling-house, or other building, the owner, or his agent, desiring to construct the same, shall file in the office of the Medical Health Officer an application for a permit therefor." The by-law further obliged any master plumber, or workmen, engaged by the owner to discharge work of such description to satisfy himself before commencing it that the permit had been so filed. Penalties were enacted for violation of the by-law.

The offence sought to be established by the prosecution was that of "reconstructing or altering" the drain leading from water-closet by removing 8 feet or so of pipe and replacing this by two new lengths, the sides being afterwards filled in with earth. Besides this operation the old hopper, which had become impaired by use, was taken out and a fresh one inserted.

*Held*, quashing the conviction, that the work performed should not be viewed as "construction, reconstruction, or alteration," but consisted of "repairs," for which a permit was not requisite. *Hoddinott v. Newton Chambers Co.* (1901) A.C. 49, considered and approved.

*B. A. Davis*, for appellant. *W. C. Chisholm*, for respondent.

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REX v. SABINE.

*Summary conviction—Appeal—Lord's Day Act, R.S.O. c. 246,—Eating house license—Sale of "Ice-cream soda."*

The defendant was convicted by R. E. Kingsford, one of the Police Magistrates for the City of Toronto, "for that he, being a tradesman," etc. (following here the words of s. 1 of the Act) by, among other things, selling and exposing and offering for sale, or authorizing clerks and salesmen to sell, etc., certain glasses of a beverage known as "Ice-Cream Soda." It appeared from the facts that the appellant held a victualling house license, for the year ending December 31, 1903, applying to 168 Queen St. west.