

onto when the Legislature in 1912 amended sec. 541a of the Consolidated Municipal Act of 1903 as enacted by sec. 19 of the Municipal Amendment Act of 1904 by adding after clause (b) the following clauses:—

“(c) In cities having a population of not less than 100,000, to prohibit, regulate and control the location on certain streets to be named in the by-law of apartment or tenement houses and of garages to be used for hire or gain.

(d) For the purposes of this section an apartment or tenement house shall mean a building proposed to be erected or altered for the purpose of providing three or more separate suites or sets of rooms for separate occupation by one or more persons. 2 Geo. V. ch. 40, sec. 10.”

Subsequently on the 13th of May, 1912, and without repealing or amending the definitions of “apartment or tenement house” and “lodging house” above set out, and with by-law 4861 still in force “for regulating the erection of buildings” in this city, the respondents, the city of Toronto, passed “No. 6061, A by-law to prohibit the erection of apartment or tenement houses, and of garages to be used for hire or gain, on certain streets” and by clause 1 prohibited, as the council had power to do, the erection of any apartment or tenement house upon property fronting upon Rachael, Sherbourne and other streets.

With this provincial law and the by-laws referred to in force the applicant in the month of March last filed plans and specifications and applied to the city council for permission to erect what he calls a temperance hotel upon property fronting upon Rachael and Sherbourne streets. There have been several alterations in the plans. Coleman originally intended and the application was launched for permission to erect a building in which cooking would be done in the several suites, and clearly an apartment or tenement house as defined by by-law 4861; a class of building prohibited upon these streets by by-law No. 6061. The plans as now on file shew only provision for one kitchen and dining room in the building and the applicant swears that finding his first application was contrary to by-law 6061: “I decided to erect and conduct on the said premises an hotel conducted as an ordinary licensed hotel is conducted, excepting that I have no license for the sale of liquor and do not intend to apply for the same.

3. Following out my changed scheme, I had the plans altered so as to cut out all the separate kitchens, sinks, etc.,