

## LIQUOR LICENSE ACT.—LAW STUDENTS' DEPARTMENT.

right to be regarded as part and parcel of the premises known as "Fraser House," referred to in the license. It is quite true that were an accusation made against a person for burglariously entering that same building in the night-time—wherein it is acknowledged the appellant sold liquors—a conviction could not follow, because it is not connected with the dwelling-house by a covered way; but that would be in consequence of special enactment, which is exceptional, and which declares that unless there is a communication immediate, or by a covered in way, with the house, no such building should be deemed part of the dwelling-house. In the absence of any such enactment, the presumption of law would be otherwise. (See cases cited *post*.) At all events, in a case like the present, where the appellant has a license and has paid the duty, and his house largely accommodates the public in every sense of the term, both for eating and drinking, I think the public have no right to make him pay for a second license; nor do I see how, under our License Acts, he either should or why he need take out a licence for such a place as the one for which he was convicted of selling in. Other innkeepers having gardens and pleasure grounds, supply their guests at any place where refreshments are ordered, within their premises, and this appellant had a right to do the same; he had a right to sell liquor on the lawn in front of the house and in the house, or on the verandah outside the house, or in any place in the open air; and I think he had the same right to sell within the curtilage of the dwelling, in any building on the premises, although it is not built close up to the dwelling-house, even if there is no communication immediate between the two, or a covered in way as would be necessary in a case of an accusation for burglary; so that if the appellant had a right to sell liquor, and if it might be consumed in the house or outside, it is no breach of the license for it to be consumed anywhere.

I think the conviction was wrong in point of law and upon the facts; and that the conviction must be quashed with costs, which I fix at \$10, besides expenses of summoning witnesses and witness' fees.

*Conviction quashed.*

(The following authorities were referred to by the learned Judge: *Rex v. Clayburn*, R.

& Ry. c. c. 360; *Rex v. Chalking*, R. & Ry., c. c. 334; 3 Inst., 64; 1 Hale, 558; 1 Mood. c. c. 13; *Rex v. Walters*, 1 Mood. c. c. 13; and *Brown's case*, 2 East, P. C., 501, 502; and *Cross v. Watts*, 13 C. B., N. S., 239.

## LAW STUDENTS' DEPARTMENT.

The Benchers have taken action on the petition for the re-establishment of the Law School, and it is probable that it will be restored in much the same shape as before.

We continue the publication of the Law Society Examination questions. The following are some of those of last Trinity Term:—

## CERTIFICATE OF FITNESS.

*Smith on Contracts—Statute Law, &c.*

A. and B. play at cards, and B. loses \$100, for which he gives A. his note, payable to A. or bearer on demand. A. sues upon the note. Has B. a good defence? Give reason for your answer.

A., a carpenter, twenty years of age, agrees, in writing, to build a house for B., and to have the same completed in sixty days, and in default to be liable to a penalty of \$5 a day for each day's delay after the sixty days. Default is made. Can B. recover the penalty? Give reasons for your answer.

How far is a husband liable for necessities supplied his wife? How far can he limit his liability by notice not to trust her?

What is the duty respectively of the Court and jury with reference to the construction of written instruments? Answer fully.

In proceedings in ejectment, under what circumstances can a defendant obtain security for costs?

Under what circumstances can a writ of *replevin* be issued without a judge's order? What material is necessary?

What is necessary to be done to procure the attendance of the opposite party at the hearing or trial of a civil cause if you desire to call such opposite party as a witness? What is the effect of the non-attendance of the party when the proper steps are taken?

Can you sue a justice of the peace for any