

# The Ontario Weekly Notes

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## HIGH COURT DIVISION.

FALCONBRIDGE, C.J.K.B., IN CHAMBERS. JANUARY 22ND, 1917.

REX v. SCHOOLEY.

*Ontario Temperance Act—Intoxicating Liquor Found on Hotel Premises—Magistrate's Conviction—Evidence Improperly Admitted—Effect on Mind of Magistrate—Order Quashing Conviction—Costs—Protection of Magistrate and Police Officer.*

Motion to quash a magistrate's conviction of the defendant for having liquor in his hotel bar-room in violation of the provision of the Ontario Temperance Act, 1916.

W. M. German, K.C., for the defendant.  
J. R. Cartwright, K.C., for the Crown.

FALCONBRIDGE, C.J.K.B., in a written judgment, said that the objection to the admission in evidence of what purported to be an analysis of the liquor seized upon the defendant's premises was well taken, and the Crown did not rely upon the said analysis.

Such being the case, *Rex v. Melvin* (1916), 11 O.W.N. 215, was expressly in point and binding. A letter from a chemist which was before the magistrate may have had some effect on his mind, inasmuch as the only other evidence was that of the chief of police, who said that he "would not swear to whisky by the taste of it but could by the smell of it."

Order quashing the conviction without costs, and with protection to the magistrate and police officer, so far as there is power to protect them.