

COUNTY COURT OF HURON.

REX v. LEWIS.

*Liquor License Act—Resolutions of License Commissioners—
Ultra vires—Two bars in one tavern.*

- Held*, 1. The erection of an additional bar in a license hotel for one day is not a violation of s. 65 of the Liquor License Act, R. S. O. c. 245, "That not more than one bar shall be kept in any license house or premises licensed under this Act," or of a resolution of a License Board that "The bar room in every tavern shall consist of one room only."
2. A resolution of License Commissioners imposing a penalty of not less than \$25 and not more than \$50 and costs and in default of distress imprisonment for not less than 20 days nor more than 40 days is *ultra vires*, the penalty being in excess of that provided by s. 100 of the Liquor License Act.

[GODERICH, Sept. 14, 1905.—HOLT, Co. J.]

Appeal from a conviction made by Charles Humber, Police Magistrate for the Town of Goderich, dated August 11, 1905, for a violation of a resolution of the License Board of West Huron providing that the bar room in every tavern shall consist of one room only.

The defendant, P. B. Lewis, was a duly licensed hotelkeeper and is the landlord of an hotel in the Town of Clinton, County of Huron.

The License Commissioners for the West Riding of Huron on April 29, 1905, passed certain regulations pursuant to the powers conferred by s. 4 of c. 245, R.S.O. 1897, and particularly sub-ss. 1, 4, 5. The defendant was tried and convicted for a breach of regulation 12, which provides, amongst other things, that a "bar room shall consist of one room only," the conviction reads "that he unlawfully had a bar which consisted of more than one room." The offence, if any, took place on July 12, 1905, and it appears that upon that day there was an Orange demonstration in the Town of Clinton, and an unusually large number of people were assembled in Clinton, and the defendant, to accommodate the people and for his own convenience, and perhaps for his own gain, erected in the hall in the hotel a temporary structure composed of a few loose planks or boards laid upon trestles, from which he served liquor and beer to his customers, and behind which some decanters stood upon a temporary shelf, and underneath these loose planks or boards were kegs of beer. As shewn in the plans the entrance to the rear of this so-called bar, where the bartender would stand, was through a door which opened from behind the ordinary bar and was at the end of it; the structure which is complained of was in the downstairs hall of the hotel, and this hall had, as the